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PART I

CONTENTS

PAGE

Labour Department

Section i

Kerala Gazette No. 49 dated 11th December 1984
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O.(Rt) No 1030/84/LBR. *Dated, Trivandrum, 31st July 1984.*

The award of the Labour Court Quilon in respect of the dispute between the Manager, Merchiston Estate, Ponmudi P.O., (via) Nedumangad and the workmen of the above concern represented by the President, Trivandrum District Plantation Labour Congress (INTUC) Congress House, Cantonment, Trivandrum-1. received by Government on 30-7-1984, is hereby published under section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947).

By order of the Governor,
T. Padmavathy Amma,
Deputy Secretary.

In the Labour Court, Quilon

Wednesday the 25th day of July, 1984/3rd Sravana, 1906

Present:

Smt. C. VISALAKSHI AMMA B.A. B.L.,

Presiding Officer

In

INDUSTRIAL DISPUTE No. 29/80

Between:

The Manager, Merchiston Estate, Ponmudi P.O., (Via) Nedumangad.

And

The workmen of the above concern represented by the President, Trivandrum District Plantation Labour Congress (INTUC) Congress House, Cantonment, Trivandrum-1

Representations:—

Sri R. Somanathan, Advocate, Trivandrum	For *the Management.*
Shri R. Lakshmana Iyer	For *the Union.*

GA 367/SMT

AWARD

This Industrial Dispute between the Manager, Merchiston Estate, Ponmudi, Nedumangad and its 27 workmen represented by the President Trivandrum District Plantation Labour Congress, (INTUC) Congress House, Cantonment, Trivandrum was referred to this Court for adjudication as per G.O. (Rt) No. 715/80/LBR dated 21-5-1980.

The issue referred is:

> "Denial of employment to 27 workmen shown in the reference order".

The workmen filed a claim statement raising the following allegations—

The 27 workers referred to in the petition were workers employed in the Merchiston Estate, Ponmudi. They have been denied employment from 19-7-1977 without valid reasons. They have been employed in the estate for the last so many years and they used to receive all benefits to which they are legally entitled till 19-7-1977 when they have been denied employment without assigning any reason. As a result, the workers have been put to much difficulties and hardship. Many representations made by the workers turned futile. The Labour Department intervened in the dispute and they have convened several conferences for the settlement of it. But the management did not show any favourable attitude for an amicable settlement. Their attitude was non cooperation which resulted in this reference. The workers are entitled to get reinstatement, as the denial of imployment is unjust and illegal. They are also entitled to get their salary and other benefits from 19-7-1977.

The management filed a written statement wherein the following contentions are raised:

There is no Industrial Dispute as alleged and as such the reference itself is bad. A few of the 27 persons named in the order of reference were seen earlier employed by the management either as Casual, temporary or permanent workmen. For various admitted reasons they ceased to be employees of the estate and their accounts if any, were fully and finally settled and payment effected too. Some of such settled individuals who had thereafter no manner of right, claim or interest against the management approached the management for providing them accommodation as temporary workers. The management may have engaged them to works of temporary nature for which they have been paid then and there itself. The engagement of such persons was purely on a temporary basis and they have not secured any legal right for employment in the estate by virtue of such temporary engag ments The non engagement of the persons so engaged do not suffer from any infirmities known to law. The action of the management is therefore legal and proper and as such no question of denial of employment arises in this case. Most of the names enumerated in the list do not also tally with the management's official records. Even the identity of the persons are not clear. Persons whose names never find a

place in the records of the estate are shown as alleged workers. The management is therefore unable to make statements regarding those individuals. The names of persons who have passed the age of superannuation are also seen included in the list. Those persons also cannot claim employment in the estate. The management has no legal obligation to continue the engagement of the persons engaged for works of a temporary nature. There was no employer-employee relationship between the 27 persons named in the order of reference or any such, of the management. On these grounds it is contended that none of the individuals mentioned in the reference is entitled to the relief claimed either for reinstatement or for any other.

The workmen filed a rejoinder traversing all the contentions raised in the written statement and reiterating their claim to get reinstatement in the service.

The evidence consists of the oral depositions of WWs 1 to 3. No ora or documentary evidence is adduced by the management. WW1 and WW2 are two of the workmen included in the order of reference. Both of them would swear that they were employees in the estate and continued as such till 19-7-1977 when they were denied employment. There first appointment was in June 1972 and they continued as workmen till the date of denial of employment. They were each getting a daily wages of Rs. 10. At the same time their evidence would disclose that they were employed by the management only as temporary workmen and that they would be satisfied. With their reintsatement as temporary workmen. WW3 is the Secretary of the employees Union (INTUC) representing the workmen of the management estate. He too would state that the 27 workmen in the order of reference were appointed in the estate in June 1972 and that they continued as workmen till 19-7-1977 on which date they were denied employment without notice, or payment of compensation. Further in his cross-examination this witness would admit that all those workmen were engaged only as temporary workers. It has also come out in evidence that out of this 27 workmen mentioned in the order of reference 3 or 4 are dead and some other shave passed the age of superannuation. Hence there is no question of reinstatement of such members. He would add that some of the workers had left for Tamilnadu and that their whereabouts are unknown. Ultimately he would admit that the union is demanding reinstatement of 10 workers alone namely workers 1 to 4, 6 to 10 and 17 in the order of reference. At this stage, the management also admitted that they are willing to employ these workmen numbers 1 to 4, 6 to 10 and 17 in the list as temporary workmen there and that an award may be passed accordingly.

In the light of the evidence and admission made by the parties I find that out of the 27 workers shown in the order of reference workmen 1 to 4, 6 to 10 and 17 alone are entitled to be reinstated in the service of the management as temporary workmen. They are not entitled to any backwages as claimed for.

In the result an award is passed declaring that workmen 1 to 4, 6 to 10 and 17 in the order of reference are entitled to be reinstated in the service of the management as temporary workmen, without any backwages or other benefits. Parties will suffer costs.

This award shall come into force on the expiry of thirty days from the date of its publication in the Government Gazette.

C. VISALAKSHI AMMA,
Presiding Officer.

Witness examined on the side of the workmen:

WW1 Varghese
WW2 Muthaiah
WW3 Haneefa

Kerala Gazette No. 49 dated 11th December 1984.
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G. O. (Rt.) No. 463|84|LBR. *Dated, Trivandrum, 2nd April, 1984.*

The award of the Labour Court, Quilon in respect of the dispute between the President, The Vinayakar Weavers' Industrial Co-operative Society Ltd. No. H-212, Paravoor, Quilon and the workman of the above concern represented by the Secretary, Paravoor Vinayakar Thozhilali Union (CITU), Paravoor received by Government on 29-3-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
A. S. MONI ACHARI,
Deputy Secretary to Government.

IN THE LABOUR COURT, QUILON

Present

Smt. C. VISALAKSHI AMMA, B.A., B.L.,
Presiding Officer

Monday the 26th day of March, 1984|6th Chaithra, 1906

In

INDUSTRIAL DISPUTE No. 40|80

Between

THE PRESIDENT,

The Vinayakar Weavers' Industrial Co-operative Society Ltd.
No. H-212, Paravoor, Quilon.

(By advocates: M|s. R. Gopalakrishnan, N. Kesavakurup and G. Sathyababu, Quilon.)

And

THE WORKMAN

of the above concern represented by the Secretary, Paravoor Vinayakar Thozhilali Union (CITU), Paravoor.

(By Advocate: Shri K. Nataraja Pillai, Quilon)

AWARD

This Industrial Dispute between the Vinayakar Weavers' Industrial Co-operative Society Ltd. No. H-212, Paravoor, and its workman A. Thankappan was referred to this Court for adjudication by the Government of Kerala as per G. O. (Rt.) No. 1314|80|LBR dated 16-9-1980.

The issue referred is:—

"Dismissal of Shri A. Thankappan, Watchman of the Vinayakar Weavers' Industrial Co-operative Society Ltd., No. H-212".

2. The workman represented by his union filed a claim statement before this court raising the following allegations. The workman was working as watchman of the management society since March, 1964. While so he was suspended pending enquiry into certain false and vague charges on 9-2-1978. The President of the society issued a belated charge memo on 1-1-1979 containing 3 false and vague charges. The charges were (1) he has tried to outrage the modesty of one Janamma who is a sweeper of the society, on 5-2-1978, while she was sweeping the shed of the Society and (2) that as a watchman the worker was guilty of dereliction of duty and had by his conduct caused injury and loss to the management society. On a prior occasion a charge memo had been issued to him on 17-8-1976 alleging theft and dereliction of duty. To that charge memo dated 17-8-1976 he had filed his explanation which was accepted by the management society, consequent to which further proceedings were dropped against him. Regarding the present second charge also his explanation was found satisfactory and so proceedings were dropped. So far as the first charge is concerned it is absolutely false and is cooked up so as to sack the worker from the service of the opposite party. There is no sweeper by name Janamma in the services of the society and this itself would reveal the false nature of the allegation. He submitted his explanation to that charge memo on 4-1-1979 denying all the allegations levelled against him. In his explanation he had specifically stated that such action was taken against him out of political vendetta. In spite of his explanation no enquiry was conducted in his presence, nor sufficient opportunity given to him to establish his innocence. Without conducting a proper enquiry the opposite party has sent another memo to him on 12-1-1979 for a personal hearing at 4 p.m. on 17-1-1979 before the committee of the society. The workman appeared before the committee and denied all the charges levelled against him. But his explanations were not accepted and subsequently he was dismissed from service by an order dated 1-2-1979. In passing this order the opposite party has violated all principles of natural justice and fair labour practice. The opposite party did not comply

with rule 198 (2) of the Co-operative Societies Rules, 1969. Under that rule no kind of punishment shall be awarded to an employee unless he has been informed in writing of the grounds on which it is proposed to take action against him and sufficient opportunity has been given to him to prove his innocence. The order of dismissal passed by the management society is illegal and vindictive. It is actuated by malafides and so is liable to be set aside and the worker has to be reinstated with full backwages and continuity of service.

3. The management filed a written statement raising the following contentions:—

It is true that the workman was working as a watchman in the service of the management society. But he was careless and negligent in performing his duties as watchman. Many a time he was cautioned and warned not to repeat the misconduct and carelessness in future. On many occasions the workman has given assurance that he will not repeat such activities in future. On 17-8-1976 also he was suspended from service on certain grave charges, namely, theft and dereliction of duty. He confessed his guilt and requested for pardon. The then Board of Directors considered the representation and decided to give him a chance more to serve in the society on humanitarian considerations. Accordingly he was permitted to continue as a watchman from 23-10-1976. He was on duty on 29-4-1977 (from 6 p.m. to 30-4-1966 6 p.m.). During that night, as a watchman he was bound to guard the properties of the Society. But due to the carelessness and irresponsibility of the delinquent a cycle and some clothes were stolen in the night. The matter was placed before the committee held on 30-4-1977. After hearing the workman, he was dismissed from service from 30-4-1977. But again on the basis of a representation submitted by him he was reappointed with effect from 19-8-1977 as watchman. While so on 5-2-1978 he misbehaved towards one Janamma who is a helper and daughter of the sweeper of the society. Janamma was performing her work in the society as usual. This workman tried to outrage her modesty regarding which she made a complaint. Her complaint was considered by the committee with other available evidence. The workman was placed under suspension from service on 9-2-1978 pending enquiry. Thereafter a charge memo was issued to him and he was asked to submit his explanation. A sub committee was also appointed to go in to the charges. On the basis of the report made by the committee he was given an opportunity for personal hearing and he was informed of the grounds on which action was proposed to be taken. All principles of natural justice has been followed in conducting the enquiry. The allegation that the dismissal order is a vindictive measure against the workman is absolutely false. On these grounds it is contended that the workman is not entitled to the reliefs claimed for.

4. The workman filed a replication traversing the entire contentions in the written statement and reiterating his claims. In his replication he would state that he was on night duty on 24-9-1977 for the first time after availing two week's medical leave as recommended by the E. S. I. Doctor, Chathannoor. He was ailing from severe wound on his leg and it was not completely cured when he had resumed his duty on that night. Unfortunately a theft of the bicycle and some clothes took place on the particular night. The theft had happened due to the fact that there was no lock or light in the rook where the clothes were stored. The matter had been reported to the police and they had subsequently caught the real culprit. It was after that he was reinstated in service. He would further plead that the allegation of his having outraged the modesty of Janamma is absolutely false. He would therefore pray that an award is to be passed directing his reinstatement with full backwages and other benefits.

5. Even at the outset the opposite party frankly admitted that there was no enquiry conducted by the management regarding the allegations levelled against the workman. On the side of the workman he himself was examined as WW1 and another witness was examined as WW2. On the side of the management MW1 was examined. Exts. M1 to M7 were also marked.

The points for consideration are:—

(i) Whether the workman is guilty of the misconduct levelled against him.

(ii) Whether the order of dismissal passed against the workman is valid and proper.

(iii) Reliefs and costs.

Point No. (i): It is an admitted fact that this workman had been suspended on former occasions also. Once he was suspended from service on 17-8-1976 for alleged theft and dereliction of duty but was later on permitted to continue as the watchman on the basis of a representation submitted by him. Again he was dismissed from service on 30-4-1977 on the grounds of alleged theft of a bicycle and dereliction of duty. But the real culprit was subsequently arrested by the police and so he was reinstated in service on 19-8-1977. On 5-2-1978 he was dismissed from service on the allegation that he misbehaved towards one Janamma who is a helper and daughter of the sweeper of the management society. It is alleged that she was performing her work in the society as usual when this

workman entered the shed where she was working and tried to outrage her modesty. She made a complaint before the committee which matter was considered by the committee in the light of some statements submitted by certain workers. Finally he was dismissed from service. But as stated earlier it is admitted by the management society that there was no proper enquiry conducted by the management regarding the allegations levelled against him.

Hence the question to be considered is whether the misconduct alleged is true. From the records it can be seen that some of the workers of the society had submitted before the Secretary of the society their statement regarding the alleged occurrence. Ext. M3 is the complaint filed by Janamma before the Secretary. From her complaint it can be seen that on 5-2-1978 there occurred some altercation between the workman and herself regarding some prior incidents, following which she tried to strike him with her broom. It was at that instant, the watcher is said to have caught hold of her but she some how managed to escape from his clutches. From her statement it cannot be made out as to whether the watchman had committed this act either with the intention of preventing her from striking him with the broom or to outrage her modesty. Exts. M4 series contains the statements submitted by three of the workers in the society who were alleged to have been present at the time and place of the occurrence. But their evidence would show that they had not actually witnessed any such behaviour on the part of the workman. According to one Mohanan, on 5-2-1978 at about 9 a. m. Janamma was seen proceeding to the southern shed of the society for attending to her work. At about 11 a.m. she approached and asked them whether they had'nt heard the hue and cry raised by her and their reply was in the negative. His statement would show that he had only hear-say information about the alleged incident. Moreover what he has stated is that this watchman had used abusive words against Janamma there is nothing mentioned in his statement regarding the alleged attempt on the part of the watchman to outrage her modesty. The statement given by another worker Sivadasan is not also not helpful to come to a conclusion that the watchman had attempted to outrage her modesty. His statement is also to be effect that he was told about the watchman of having used abusive words against Janamma. Another person who had given a statement is one Kunjukutty. She was there in the society premises weaving coconut cadjans when the sweeper approached her and told her that the watchman was creating unnecessary nuisance and that therefore she was not able to attend her duties. This statement would disclose that Kunjukutty had also not actually seen any such attempt on the part of the workman to outrage her modesty. Ext. M5 is the statement of another Gopalan. His statement is also to the

effect that he was told about the watchman's attempt to outrage the modesty of Janamma and that therefore he had advised her not to attend the work on that day. It was on the basis of these statements that the committee came to the conclusion that the watchman had tried to outrage her modesty. But there is nothing mentioned in these statements, regarding their having actually witnessed any such incident. Hence a definite conclusion cannot arrived at on the basis of their hear-say knowledge which also was to the effect that the watchman had only used abusive words against her. Apart from all this, Janamma too has not been examined as a witness in this Court. Thus there is absolutely no evidence to show that the watchman had tried to outrage her modesty on 5-2-1978. The normal conclusions that could be drawn from the available evidence is that some untoward occurrence had taken place there on 5-2-1978 following an attempt on the part of Janamma to strike the watchman with her broom. As there is no clear and convincing evidence regarding the alleged misconduct a definite conclusion cannot be arrived at regarding that point. I therefore find that the misconduct alleged against the watchman stands totally disproved. As such the order of dismissal of the watchman on the grounds of misconduct cannot be sustained and it is liable to set aside.

Point No. (ii): Once the dismissal is proved to be invalid the normal relief to be granted is reinstatement. At the same time it has come out in evidence that this workman is a person who was given warnings on many an occasion and also had been suspended for dereliction of duty. In the instant case also though the alleged misconduct of outraging the modesty of the sweeper is not proved beyond doubt it is clear that he had created some trouble in the society premises on that day. In the circumstances I hold that the workman is not entitled to get the benefit of backwages.

In the result an award is passed declaring that the order of dismissal passed on the workman is illegal; and the same will stand set aside. The workman will be reinstated in service without any backwages but with continuity of service.

This award shall come into force on the expiry of thirty days from the date of its publication in the Government Gazette.

C. VISALAKSHI AMMA,
Presiding Officer.

APPENDIX

Witnesses examined on the side of the Worker:

WW1. P. K. Gurudasan
WW2. A. Thankappan

Witness examined on the side of the Management:

MW1 K. Dassayyan Nadar

Exhibits marked on the side of the Worker:

Nil

Exhibits marked on the side of the Management:

Ext. M1 Memo dated 9-2-1978 of the Vinayakar Weavers' Industrial Co-operative Society Ltd., Paravur issued to Shri A. Thankappan, Watchman.

" M2 Memo of the President, Vinayakar Weavers' Industrial Co-operative Society Ltd., Paravur issued to Shri A. Thankappan.

" M3 Letter from Janamma addressed to Vinayakar Weavers' Industrial Co-operative Society.

" M4 Statement from N. Mohanan, addressed to the Secretary, Vinayakar Weavers' Industrial Co-operative Society.

" M5 Letter from K. Gopalan, Peon addressed to the Secretary, Vinayakar Weavers' Industrial Co-operative Society.

" M6 Memo of the Secretary, Vinayakar Weavers' Industrial Co-operative Society addressed to Shri A. Thankappan.

" M7 Statement from A. Thankappan addressed to the Secretary, Vinayakar Weavers' Industrial Co-operative Society.

Kerala Gazette No. 49 dated 11th December 1984
PART I

GOVERNMENT OF KERALA

Labour (A) Department

NOTIFICATION

G.O. (Rt.) No. 1014/84/LBR. *Dated, Trivandrum, 30th July 1984.*

The award of the Labour Court Ernakulam in respect of the dispute between the President, Pambakada Service Co-operative Society Ltd. No. 3520, Pambakada P.O., Moovattupuzha and the workman of the above Society Shri M.K. Philipose, Mangat House, Ramamangalam P.O., Moovattupuzha received by Government on 23-7-1984 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
T. PADMAVATHY AMMA,
Deputy Secretary to Government.

In the Labour Court, Ernakulam

(Dated Monday, the 16th July 1984)

Present:

SHRI N. SUKUMARAN, B.SC., B.L.,
Presiding Officer

In

INDUSTRIAL DISPUTE No. 40 of 1981

Between:

The President, Pambakada Service Co-operative Society Ltd. No. 3520, Pambakada P.O., Moovattupuzha

And

The workman of the above Society Shri M.K. Philipose, Mangat House, Ramamangalam P.O., Moovattupuzha.

Representations:—

Shri M. Ramachandran, Advocate, Cochin-17 } For *the Management.*

Shri P.F. Thomas, Advocate, Cochin-12 } For *the Workman.*

AWARD

Dismissal of Shri M.K. Philipose is the issue referred for adjudication by Government as per G. O. (Rt.)No. 657/81/LBR dated 20-5-1981.

2. Shri Philipose was the Secretary of Pambakada Service Co-operative Society Ltd. No. 3520 (hereinafter referred to as the Society). While so Ext. M4 charge memo dated 24-5-1980 containing as many as 15 items of allegations were framed and served on him. As required in Ext. M4 Shri Philipose submitted his explanation Ext. M5 admitting that there were certain irregularities as stated in item Nos. 1 and 2 of Ext. M4 and pleading innocence of the other allegations. In the explanation it was alleged that certain acts or omissions attributed to him are not misconducts for the reason that there were resolutions by the Director Board of the Society in support of such actions or omissions. The explanation did not find favour with the Society and Shri Philipose was placed under suspension pending enquiry. The suspension order is Ext. M6. Subsequently Ext. M7 charge memo dated 31-5-1980 was also issued alleging that the resolutions of which reference was made in the explanation Ext. M5 were not actually taken by the Director Board but unauthorisedly entered in the minutes book by Shri Philipose to justify his action and the explanation. Thus altogether there were 16 items of charges into which a domestic enquiry was conducted by MW1, an Advocate. MW1 in his report Ext. M1 found Shri Philipose guilty of item Nos. 1, 2, 6, 8, 10 and 13 to 16 of the charges. Accepting the same the Society dismissed Shri Philipose on 5-10-1980. It is the correctness of that dismissal that is under challenge.

3. The Management in its written statement defends its action by saying that Shri Philipose was really guilty of the misconducts attributed to him and the action was initiated bonafide on the basis of the irregularities noticed and that grave acts of misconducts proved at the domestic enquiry properly conducted merited the punishment of dismissal. According to the Society the dismissal is not liable to be interfered in any manner.

4. Shri Philipose in the charter of demands, copy of which is appended to the reference, as well as the rejoinder filed before this court contends that he who was innocent of the charges was victimised by the new Director Board members of the Society who took charge on 9-11-1979 since he had occasion to proceed against them or their close relations or associates for realisation of loans advanced from the Society. It is further alleged that there was no proper and valid domestic enquiry. Reinstatement with all benefits is claimed by Shri Philipose.

5. The validity of the domestic enquiry was tried as a preliminary issue and I found as per my order dated 8-8-1983 (appended as an annexure to this award) that there was no proper and valid domestic enquiry. Thereupon fresh evidence was adduced by the Management. The workman also adduced evidence contra.

6. *Item Nos.* 1, 2, 6, 8 and 16 of the various items contained in the two charge memos alone are pressed before me by the learned counsel

appearing on behalf of the Society. So I need only see as to whether these items are substantiated. I shall proceed to consider those items on the basis of the available evidence.

7. *Item No. 1*: The allegation under this item is to the effect that Rs. 50 collected from subscriber No. 66 of a chitty conducted by the Society as Foreman, on 22-9-1976 towards instalments 37 and 38 was accounted and credited only on 5-5-1978 and thereby misappropriation was committed. In the explanation Ext. M5 Shri Philipose said that the amount was not actually collected on 22-9-1976. But he further stated that he happened to make an entry showing a receipt of Rs. 50 from subscriber No. 66 in the chitty ledger by way of a mistake and the omission to have corresponding entries in the main day book is a clerical error. The concerned account books had been produced in court. But Ext. M9 day book alone is marked in evidence. The admitted position is that a receipt of Rs. 50 from subscriber No. 66 was recorded in the chitty registers as on 22-9-1976. No corresponding receipt is entered in Ext. M9 on that day. This amount is seen to have been brought to the main day book only on 5-5-1978. The explanation is that actual payment was made only on 5-5-1978 and the entries in the chitty register as though payments were made on 22-9-1976 are clerical errors. From the admission of Shri Philipose as WW1 and from the explanations contained in Ext. M5 it is evident that Shri Philipose himself had made entries in the chitty register to the effect that Rs. 50 was received from subscriber No. 66 on 22-9-1976. It is not known as to how an amount which was not received was entered in the chitty register. Even if that was a mistake a corresponding entry should have been made in the main day book Ext. M9. There is no reasonable explanation for not doing so. When the position is so the present explanation that the earlier entry in the chitty accounts is the result of the clerical error cannot be accepted. So it can safely be concluded that there was temporary misappropriation concerning this amount of Rs. 50 from 22-9-1976 till 5-5-1978. I find Shri Philipose guilty to that extent under this item of the charge.

8. *Item No. 2*: The substance of this charge is to the effect that Rs. 12.50 and Rs. 25 respectively collected as per receipt Nos. 3734 and 3735 in 1976 were not booked in the accounts, but misappropriated by Shri Philipose. His explanation in Ext. M5 is that the collections made as per the receipts were omitted to be entered in the main day book. The further explanation is that the defect was noticed in audit and it was accordingly remitted as per receipt No. 4727 dated 2-5-1980. The main defence regarding this charge is that the omission to account for the money was accidental but not intentional. Here in this case we have Exts. M10 (a) and M10(b) counterfoils of receipts contained in Ext. M10 receipt book concerning the receipt of money. The fact that money had been received is admitted. It was not properly accounted. If there is an accidental omission in making a proper accounting of the amounts received then naturally there must be excess in cash when it is tallied with the balance as per the accounts. So there is no possibility for an accidental omission in making proper entries concerning

receipts. If at all there was any omission the same could easily have been detected on the same day when it was noticed that there was excess in cash. So the explanation that the omission was accidental cannot be accepted. The only reasonable inference that could be drawn is that the amount was misappropriated by Shri Philipose who admittedly was the custodian of money. Hence it can safely be concluded that Shri Philipose is guilty of misappropriation as stated in item No. 2 of the charge. The fact that he remitted the money subsequently when it was detected in audit is not of much relevance. Hence I find that he was guilty of the misappropriation as stated in item No. 2 of the charge.

9. *Item No. 6*: The substance of the allegation under this item is that Shri Philipose caused loss to the Society as he did not implement the decision of the Director Board to sell in auction the waste materials that were available when the construction of a godown for the Society was completed. The defence in the explanation of Shri Philipose is that there was no such resolution. It is admitted that the balance materials that were available were not sold in auction. This construction was initially entrusted to MW10 on contract. But he could not complete the construction. His evidence is that he had sold some of the materials to the Society when his contract was terminated. He says that there were certain planks intended to be used for the concrete work among the materials so sold by him. He states further that he had information that the Society had subsequently sold the balance materials after the completion of the work. The evidence of MW10 is of no help to us as nobody has a case that the balance materials were sold. The essence of the charge is that the materials were not sold and the Society had therefore sustained pecuniary loss. To fasten a liability on Shri Philipose it is said that there was a specific decision by the Director Board to dispose of the balance items in auction. To substantiate this charge the Society should have established that there was such a decision. But no such decision is available in Ext. M3 minutes book for the relevant period. Since the Society had failed to establish that there was a decision to sell these articles by public auction it cannot be said that the charge under this item is proved. It is unnecessary to consider the evidence of WW2 who was then the President of the Society concerning this aspect. So I hold that the Society has failed in its attempt to establish this charge.

10. *Item Nos. 8 and 16*: The allegations contained in item Nos. 8 and 16 are closely connected and therefore they can be considered together. Under item No. 8 it was alleged that Shri Philipose did not comply with the direction contained in the resolution passed by the Director Board on 28-12-1977 to convene a general body meeting of the members of the Society on or before 31-3-1978. In answer Shri Philipose in Ext. M5 stated that there was a subsequent resolution as resolution No. 25 on 15-2-1978 by the Director Board to indefinitely postpone the meeting that was proposed to be held on or before 31-3-1978. Item No. 13 of Ext. M4 charge was to the effect that there was deficiency in the stock of special rice.

Though we are not now concerned with the merits of that charge it is relevant since Shri Philipose in his explanation concerning that item had stated that resolution No. 6-D was passed by the Director Board on 26-7-1978 confirming that some special rice was lost due to deterioration. After receiving Ext. M5 explanation the Society on verification of Ext. M3 minutes book found that there were two resolutions which were advanced by Shri Philipose as defence in his explanation. But the Society was of the view that those two resolutions were not actually passed by the then Director Board. It was further of the opinion that the two resolutions as it appears in the minutes book were subsequently entered in the minutes book by Shri. Philipose unauthorisedly with a view to advance a false defence. Item No. 16 of the charge concerns the creation of these records which are alleged to be false.

11. The fate of item No. 8 of the charge will depend upon the decision on item No. 16. It is common case that the Director Board had decided on 28-12-1977 to convene a general body meeting of the members of the Society on or before 31-3-1978. Admittedly it was the duty of the Secretary as per Ext. W7 bye-laws to convene the meeting. The meeting was not called. The defence is that resolution No. 25 as it appears now in Ext. M3 minutes was passed subsequently by the Director Board to postpone the meeting indefinitely. That resolution appearing at page 36 of Ext. M3 minutes book is Ext. M3 (c). MWs. 2 and 3 were Director Board members at the relevant time. They were present in the meeting in which the disputed resolution is alleged to have been passed. That it is so is evident from Ext. M3 minutes. Both of them have given evidence that Ext. M3 (c) resolution was not moved or passed on that day. Shri Philipose as WW1 swears that Ext. M3 (c) was a genuine resolution passed along with the other resolutions on 15-2-1978 WW2 who was the then President corroborates him on this aspect. The conflicting versions spoken to by these two sets of witnesses have to be scrutinised in the light of other facts and circumstances available. As many as 26 resolutions are recorded in Ext. M3 as having been passed on 15-2-1978. Ext. M3 (c) (resolution No. 25) prima facie appears to have been written in an ink different than what was utilised for recording the other resolutions. Pages in Ext. M3 are so numbered as to assign the same page number to two successive facing sheets. This book shows that one or two lines available after recording a particular resolution in between the two sheets are often kept unused. There was thus probability therefore to have two blank lines to insert Ext. M3 (c) resolution. (Ext. M3-c is written utilising two lines at the bottom of the first sheet of page 36). There is a conspicuous tampering with No. 26 assigned to the last resolution. The Society's case is that the last resolution as it was originally numbered was 25 and it was corrected as 26 assigning No. 25 to Ext. M3 (c). Apart from the tampering that is appearing in Ext. M3 (c) concerning the number we have also another strong circumstance in favour of the Society's case on this aspect. Ext. M3 (a) is an attested copy of resolution No. 25 of 15-2-1978 obtained and produced by the Society from the District Co-operative Bank. It is the admitted case that the original of Ext. M3 (a) was despatched to the District Co-operative

Bank by Shri Philipose. That is the last resolution of 15-2-1978. In Ext. M3 (a) the number given to the resolution is 25. Shri Philipose had no explanation when he was examined before me as to why there was such a discrepancy. In the absence of satisfactory explanation the only reasonable inference that could be drawn is that the last resolution was originally numbered as 25. Then the only conclusion that could be reached is that the existing resolution No. 25 (Ext. M3-c) is a later insertion. Then the evidence of WW1 and WW2 cannot be accepted. On the other hand the testimony of MWs. 2 and 3 on this aspect of the case can safely be accepted and acted upon. So I find that Ext. M3 (c) resolution was unauthorisedly incorporated by Shri Philipose. When that is the position charge No. 8 must also be held to have been proved.

12. Under item No. 16 we have the other allegation that resolution No. 6-D dated 26-7-1978 is also a later insertion. The disputed resolution appearing at page 60 of Ext. M3 is Ext. M3 (d). It is common case that a part of the resolution was genuinely taken by the Director Board. The allegation is that a portion had been added on to it utilising a similar space that was available as in the case of Ext. M3 (c). The resolution as it appears now reads:—

"സംഘം വക വ്യാപാര കണക്ക് അടുത്ത കമ്മററിയിൽ ചർച്ച ചെയ്താൽ മതിയാകുമെന്നും സ്പെഷ്യൽ റൈസ് വിററു തീർക്കാതെ ഗോഡൗണിൽ ഇരുന്നു കുത്തരി പഴകി പുഴുത്തു കുറവു വന്നിട്ടുള്ള 7 ക്വി. 75 കി. ഡാമേജായിട്ടുള്ളതാണെന്ന് കമ്മററി പരിശോധിച്ച് ബോദ്ധ്യപ്പെടുകയും ചെയ്തു."

The Society's case is that the resolution as it was passed concerned only with the business account and that the insertion concerning the rice was later made. The very appearance of the writings in the book would indicate that one blank line was utilised for the insertion and that the writings on the subsequent line which was already part of the original resolution was erased and the material reconstructed as it appears now. The ink used is different concerning the disputed portions. As against the usual practice of having only one item for the subject matter of an individual resolution two are seen to have been clubbed in this solitary case. The oral evidence concerning this resolution also is found in the testimony of MWs. 2 and 3, WW1 and WW2. I have already found that the evidence of WW1 and WW2 could not be accepted as true in connection with the other limb of item No. 16 of the charge. That circumstance taken along with the additional circumstances now tasted the evidence of MWs. 2 and 3 to the effect that Ext. M3 (d) resolution as it appears now was not passed by the then Director Board has also to be accepted. So I find that item Nos. 8 and 16 of the charge are proved.

13. Voluminous other oral evidence is also adduced on the side of the Management to which I have not referred. They relate to the other charges which were not pressed before me and it is unnecessary to consider the same.

14. The workman has a case that he was victimised by the new Director Board of the Society. Several of the members of the new Director Board which took charge on 9-11-1979 have been examined on the side of the Management. They have admitted during the course of their evidence that

Shri Philipose had initiated recovery proceedings against them before they became members of the Director Board. This circumstance is relied on by the learned counsel appearing on behalf of the workman to argue that his client who was innocent was victimised by those persons who came into power on account of his previous legitimate action. It may be true that the new Director Board members had an axe to grind against Shri Philipose. That may perhaps be the reason why they scrutinised the past performance of Shri Philipose. But that by itself is not sufficient to say that Shri Philipose was innocent. The findings that I have entered above indicate that Shri Philipose was not innocent as far as item Nos. 1, 2, 8 and 16 of the charges. When that is so it cannot be said that he is an innocent victim. Bonafides of the Society cannot also be successfully challenged since the action was not baseless. So the allegation that Shri Philipose was victimised cannot be accepted.

15. Now the question remains as to whether Shri Philipose is entitled to any reliefs in the matter of punishment as per Section 11-A of the Industrial Disputes Act. The gravity of the misconducts proved are to be considered as to whether he deserves any leniency. The misconducts proved involve misappropriation as well as falsification of valuable records. It is argued that the amount involved in the misappropriation is negligible. It is further argued that the tamperings in the minutes book do not relate to any matter of serious importance. But the fact remains that Shri Philipose had dishonest intentions when he made insertions in the minutes book. It was done with a view to advance a false defence. The element of dishonesty is available regarding many transactions also. Shri Philipose was occupying a very responsible position as the chief executive of the Society. Co-operative Societies can thrive if only it is manned by men of integrity and honesty. Shri Philipose by his omissions and commissions have proved himself unworthy to hold such a responsible position. The only reasonable punishment that could be thought of in such circumstances is termination by way of dismissal. So the punishment of dismissal is appropriate and calls for no interference. That punishment is only to be confirmed and I do so finding that Shri Philipose is not entitled to any reliefs. In the result an award is passed confirming the dismissal of Shri M.K. Philipose.

Ernakulam,
16-7-1984.

N. SUKUMARAN,
Presiding Officer.

Appendix

Witnesses examined on the Management's side:

MW1 Shri Sreedharan.
MW2 ,, K.C. Jacob.
MW3 ,, A.P. George.
MW4 ,, P.A. Narayanan Nair.
MW5 ,, K.M. Abraham.
MW6 ,, N.K. Jordy.
MW7 ,, Rajan P. Scaria.
MW8 ,, K.M. Poulose.
MW9 ,, U.J. Abraham.
MW10 ,, Kuriakose.

Witnesses examined on the Workman's side:

WW1 Shri M.K. Philipose.
WW2 ,, Joseph John.

Exhibits marked on the Management's side:

Ext. M1. Report of the Enquiry Officer dated 8–9–1980.
,, M2. Depositions of the witnesses in the domestic enquiry.
,, M3. Minutes book of the Society from 18–8–1977.
,, M3(a) True copy of the Committee Resolution No. 25 dated 15–2–1978.
,, M3(b) Page 113 of Ext. M3.
,, M3(c) Resolution No. 25 recorded at page 36 of Ext. M3.
,, M3(d) Resolution No. 6 (d) recorded at page 60 of Ext. M3.
,, M4. Copy of memo of charges dated 3–5–1980 served on Shri Philipose.
,, M5. Explanation of Shri Philipose dated 9–5–1980 in answer to Ext. M4.
,, M6. Copy of suspension order dated 12–5–1980 issued to Shri Philipose.
,, M7. Copy of additional charges dated 21–5–1980 served on Shri Philipose.
,, M8. Explanation of Shri Philipose dated 26–5–1980 to Ext. M7.
,, M9. Day book of the Society from 16–6–1976.
,, M10. Chitty receipt book starting No. 3701.
,, M10(a) Carbon copy of receipt No. 3734 in Ext. M10.
,, M10(b) Carbon copy of receipt No. 3735 in Ext. M10.
,, M11. Audit certificate and audit memorandam of the Society for the year 1975–76.
,, M11(a) do. do. for the year 1976–77.

Exhibits marked on the Workman's side:

Ext. W1 Charge-cum-enquiry notice dated 24-5-1980 issued to Shri Philipose by the Enquiry Officer.

,, W2 Copy of reply of Shri Philipose dated 5-6-1980 sent to the Enquiry Officer.

,, W3 Copy of a communication dated 21-5-1980 from the Society to Shri Philipose.

,, W4 Copy of a notice dated 24-5-1980 from the Enquiry Officer to Shri Philipose.

,, W5 Copy of memo of charges dated 3-5-1980 from the Society to Shri Philipose.

,, W6 Copy of explanation of Shri Philipose dated 9-5-1980.

,, W7 Bye-laws of the society.

ANNEXURE

In the Labour court, Ernakulam

Present:

SHRI N. SUKUMARAN, B. SC., BL.,

Presiding Officer

Monday, the 8th day of August, 1983

INDUSTRIAL DISPUTE No. 40 of 1981

Between

The President, Pambakada Service Co-operative Society Ltd. No. 3520, Pambakada P.O., Moovattupuzha.

And

The workman of the above Society Shri M.K. Philipose, Mangat House, Ramamangalam P.O., Moovattupuzha.

Representations:—

M/s. M. Ramachandran & K. R. B. Kaimal, Advocates, Cochin-17. — For *Management*

Shri P. F. Thomas, Advocate, Cochin-12. — For *Workman*

PRILIMINARY ORDER

Shri M. K. Philipose, who was the Secretary of the Management Society, was dismissed on 5-10-1980 and the correctness of that dismissal is challenged by the employee himself. (There is no Union supporting him). The dismissal was after a domestic enquiry conducted by MW1, an Advocate, appointed for that purpose. The Management is defending its action by saying that Shri Philipose was found guilty of grave acts of misconducts is an independent domestic enquiry held by MW1 and therefore the dismissal is proper. The workman in the charter of demands under which the dispute was raised copy of which is appended to the reference, as well as the rejoinder filed before this court contends that the enquiry was held without giving him sufficient opportunity to defend himself by a biased enquiry officer with a pre-determination to find him guilty and that he who is innocent of the charges was found guilty without any proper basis. According to him the action was initiated by a new set of Director Board Members who came out successful in an election where they had already declared that they will sack the Secretary if they are returned to power. Those persons were proceeded against by him (the Secretary) for realisation of dues that were outstanding to the Society and that is the reason why they have a special motive to victimise him. They have translated their motive into action soon after they came into power and he was dismissed on flimsy grounds. He is therefore entitled to reinstatement with all benefits.

2 In view of the serious contest regarding the validity of the domestic enquiry it was proposed to consider that aspect as a preliminary issue. Evidence was let in by both sides regarding the validity of the domestic enquiry in which the enquiry officer was examined as MW1 and Exts. M1 to M3 proved and the workman gave evidence as WW1 and produced and proved Exts. W1 to W7.

3. The Management Society issued Ext. W5 charge enumerating twelve items of misconducts and served it on Shri Philipose on 3-5-1970. Later an additional charge Ext. W3 dated 21-5-1980 alleging that he had effected alterations in the minutes subsequent to the service of Ext. W5 was also served. He was simultaneously placed under suspension along with the serving of Ext. W3. It was thereafter that the Enquiry Officer was authorised to conduct the enquiry. He conducted the enquiry with notice to Shri Philipose in which the delinquent participated throughout. Nine witnesses for the Management and seven for the worker were examined and their depositions are contained in Ext. M2 file. Certain documents were also proved at the enquiry. On the basis of the evidence MW1 gave his findings Ext. M1 where in he found the workman guilty of the majority of the items of misconducts attributed to him and acquitted him on the other counts. The dismissal followed on the basis of Ext. M1 findings.

4. The main attack is that the Enquiry Officer is biased. It is in evidence that one Rajan Scaria, a member of the Society, took an active part in initiating disciplinary proceedings against Shri Philipose. Rajan Scaria's brother Shri P. M. Thoms is an Advocate under whom MW1 was

then practising as a junior. One criticism is that the services of MW1 were employed for the enquiry as he is the junior of Shri Rajan Scaria's brother. But the relationship existing need not necessarily mean that MW1, an Advocate, will automatically be biased. The question as to whether he was biased in favour of the Management and against the workman or not has to be assessed from the manner in which he conducted the proceedings. It is complained by the workman that the Enquiry Officer proceeded with a pre-determination that the workman is guilty since he had given expression to his thinking that the workman is guilty even in the first communication addressed by him to the workman. That is Ext. W1 dated 24-5-1980 wherein the workman was given intimation regarding the appointment of MW1 as the Enquiry Officer. In the same communication the proposal to hold the enquiry was also notified. There the charges were also enumerated. In it as many as 16 items of misconducts are serially numbered. One criticism is that the Enquiry Officer had added additional charges without any proper basis when compared with Exts. W5 and W3 charges issued by the Management. MW1 had admitted in his evidence before me that he had codified the charges in his own way on the basis of the allegations contained in Exts. W3 and W5. A comparison of Exts. W3 and W5 on the one part with Ext. W1 show that no additional items of charges had been included by the Enquiry Officer. The Enquiry Officer only gave shape to the allegations already made and arranged them seriatim. So the complaint that additional charges were raised by the Enquiry Officer suo moto is not correct.

5. One other complaint is that the Enquiry Officer attributed fresh motive of misappropriation to the workman when such allegations were absent in the charges framed and served by the management. A scrutiny of the relevant records Exts. W1, W3, and W5 show that nothing of that sort was done by the Enquiry Officer. A passage in the opening paragraph of Ext. W1 is then relied on by the learned counsel appearing on behalf of the workman to argue that the Enquiry Officer proceeded with an impression that the workman was really guilty. The passage under attack is as follows:—

> "..........................സെക്രട്ടറി എന്ന നിലയിൽ താങ്കൾ ജോലി ചെയ്തുവരവെ പണാപഹരണം മുതലായ ഗുരുതരമായ ക്രമക്കേടുകൾ താങ്കൾ നടത്തിയതിനെത്തുടർന്ന് താങ്കളെ സംഘം ഡയറക്ടർ ബോർഡ് സസ്പെൻറ് ചെയ്തിട്ടുള്ളതും ഇപ്പോഴും സസ്പെൻഷനിൽ നിൽക്കുന്നതുമാണല്ലോ.........."

The criticism is that the above statement made and communicated by the Enquiry Officer to the workman gave him (the workman) a genuine feeling that the Enquiry Officer was of opinion that he was already guilty. The workman has given expression to his feeling which he entertained from the above statement in his reply Ext. W2 by stating that he is surprised that the Enquiry Officer has already made up his mind that the allegations are true and therefore he apprehends that he will not get justice from him. One has to realise the predicament in which the workman was placed. He was under suspension pending enquiry into certain allegations. The enquiry

was proposed to see whether the allegations are true. The Enquiry Officer normally should not have in the circumstances stated in the intimation issued to the workman (Ext. W1) that he had committed the acts attributed to him. Naturally the workman would have interpreted the above statement only as a conclusion already reached by the Enquiry Officer. In these state of affairs he would have apprehended that he may not get justice as the Enquiry Officer has already reached the conclusion. This apprehension must have affected the workman to a great extent adversely when he had approached the Enquiry Officer to participate in the enquiry. This circumstance could have been ignored as an innocent mistake had the proceedings been held properly by the Enquiry Officer. But the manner in which the enquiry was conducted further confirms that the apprehension of the workman was well founded. There was no presenting Officer for the Society. It is admitted by MW1 that all the witnesses produced on behalf of the Management were examined in chief by him. Thereafter they were offered for cross-examination and the workman cross-examined them. Some of them were re-examined by the Enquiry Officer himself. Seven witnesses for the defence were examined in chief and they are seen to have been cross-examined elaborately and it is recorded in the depositions contained in Ext. M2 that the Enquiry Officer himself cross-examined them. It may be true that there is nothing wrong and irregular in the Enquiry Officer himself acting as the Prosecutor as well. But the Management had the advantage of the services of a qualified lawyer to examine and re-examine its witnesses and to cross-examine the defence witnesses. That facility was not available to the workman who had to perform his part and defend himself. So the opportunities were not equally balanced. That way the Management had an advantage and the workman has suffered a serious disadvantage. I would even have ignored this procedure since the workman did not claim at the enquiry that he wanted the assistance of a lawyer in view of the peculiar circumstances. But it is noticed from the depositions available in Ext. M2 that the Enquiry Officer had suggested to three at least of the defence witnesses in cross-examination that they are swearing to the falsehood. (defence witness Nos. 3, 4 and 5). The questions are as follows:—

"Are you not speaking to the falsehood to help the accused?"

This form of questions to the defence witnesses indicate as to how the mind of the Enquiry Officer was working. He who was yet to judge the credibility or otherwise of the witnesses examined before him had given expression to the feeling that the defence witnesses are swearing to the falsehood. It needs hardly be mentioned that no further material is required to say that the Enquiry Officer was biased. So the enquiry was conducted by MW1 with a closed mind. This bias is sufficient to say that there was no independent and impartial enquiry. So I have no hesitation to set aside the enquiry as improper and unacceptable. It is unnecessary in the circumstances to go into the merits of the case since the whole enquiry is vitiated for the above reason.

6. The Management had also offered in its written statement that it will lead fresh evidence in case it is found that the enquiry already held is not proper. The Management certainly will have the right to attempt to establish the charges before this court afresh.

7. In the result it is hereby found that the domestic enquiry held at the instance of the Management was not valid and proper.

Dictated to the confidential Assistant, transcribed and typed out by him, corrected by me and declared in open court on this the 8th day of August, 1983.

N. SUKUMARAN.
Presiding Officer.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 15641/Leg.Pbn.2/84/Law. *Dated, Trivandrum, 25th September* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 12th January 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 12th January, 1984.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE BANKING LAWS (AMENDMENT) ACT, 1983

Arrangement of Section

CHAPTER I

PRELIMINARY

Section

CHAPTER II

AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

CHAPTER IV

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

CHAPTER VI

Amendments to the State Bank of India (Subsidiary Banks) Act, 1959.

49. Insertion of new section 36A.
50. Insertion of new section 38A.
51. Amendment of section 43.
52. Amendment of section 44.
53. Amendment of section 53.
54. Amendment of section 62.
55. Amendment of section 63.

CHAPTER VII

Amendments to the Deposit Insurance and Credit Cuarantee Corporation Act, 1961

56. Amendment of section 2.
57. Amendment of section 4.
58. Amendment of section 6.
59. Amendment of section 11.
60. Amendment of section 13.
61. Amendment of section 13A.
62. Amendment of section 16.
63. Amendment of section 32.
64. Amendment of section 50.

CHAPTER VIII

Amendments to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970

65. Amendment of section 3.
66. Amendment of section 9.
67. Amendment of section 10.
68. Insertion of new section 16A.
69. Amendment of section 19.

CHAPTER IX

Amendments to the Regional Rural Banks Act, 1976

70. Amendment of section 30.

CHAPTER X

Amendments to the Banking Companies Acquisition and Transfer of Undertakings) Act, 1980

71. Amendment of section 3.
72. Amendment of section 9.
73. Amendment of section 10.
74. Insertion of new section 16A.
75. Amendment of section 19.

THE BANKING LAWS (AMENDMENT) ACT, 1983

(Central Act 1 of 1984)

AN

ACT

further to amend the Bankers' Books Evidence Act, 1891, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Banking Laws (Amendment) Act, 1983.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891

2. *Amendment of Act* 18 *of* 1891.—In the Bankers' Books Evidence Act 1891,—

(a) in section 2,—

(i) for clause (4), the following clause shall be substituted, namely:—

'(4) "legal proceeding" means,—

(i) any proceeding or inquiry in which evidence is or may be given;

(ii) an arbitration; and

(iii) any investigation or inquiry under the Code of Criminal Procedure, 1973, (2 of 1974) or under any other law for the time being in force for the collection of evidence,

conducted by a police officer or by any other person (not being a magistrate) authorised in this behalf by a magistrate or by any law for the time being in force;';

(ii) in clause (8), for the words "such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title", the following shall be substituted, namely:—

"and where the copy was obtained by a mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the bank's business after the date on which the copy had been so prepared, a further certificate to that effect each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.";

(b) after section 7, the following section shall be inserted, namely:—

'8. *Order of court to be construed to be order made by specified officer.*—In the application of sections 5, 6 and 7 to any investigation or inquiry referred to in sub-clause (iii) of clause (4) of section 2, the order of a court or a Judge referred to in the said sections shall be construed as referring to an order made by an officer of a rank not lower than the rank of a Superintendent of Police as may be specified in this behalf by the appropriate Government.

Explanation.— In this section, "appropriate Government" means the Government by which the police officer or any other person conducting the investigation or inquiry is employed.'.

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

3. *Amendment of section* 17.—In section 17 of the Reserve Bank of India Act, 1934 (2 of 1934) hereafter in this Chapter referred to as the Reserve Bank Act), in clause (4B), in the proviso, for the words "three crores of rupees", the words "fifteen crores of rupees" shall be substituted.

4. *Amendment of section* 33.—In section 33 of the Reserve Bank Act, in sub-clause (a) of clause (i) of subsection (6), for the word "notified", the word "approved" shall be substituted.

5. *Amendment of section* 40.—In section 40 of the Reserve Bank Act, in the *Explanation*, for the words and figures "Foreign Exchange Regulation Act, 1947 (7 of 1947)", the words and figures "Foreign Exchange Regulation Act, 1973 (46 of 1973)" shall be substituted.

6. *Amendment of Section* 42.—In section 42 of the Reserve Bank Act,—

(a) in the *Explanation* to sub section (1),—

(i) in clause (a), for the words "of a week", the words "of a fortnight" shall be substituted ;

(ii) for clause (b), the following clause shall be substituted, namely:—

'(b) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;";

(iii) in clause (c),—

(A) in sub-clause (iii), after the words "State Government", the words and figures "or from the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962 26 of 1962" shall be inserted ;

(B) after sub-clause (iv), the following sub-clause shall be inserted, namely:—

"(v) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;";

(iv) in clause (d), after sub-clause (iii), the following sub-clause shall be inserted, namely :—

"(iiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);";

(v) in clause (e), after sub-clause (iii), the following subclause shall be inserted, namely:—

"(iiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);";

(b) to subsection (1A), the following proviso shall be added, namely:—

"Provided that the Bank may, by a separate notification in the Gazette of India, specify different dates in respect of a bank subsequently included in the Second Schedule.";

(c) after subsection (1B), the following subsection shall be inserted, namely:—

"(1C) The Bank may, for the purposes of this section, specify from time to time with reference to any transaction or class of transactions that such transaction or transactions shall be regarded as liability in India of a scheduled bank, and if any question arises as to whether any transaction or class of transactions shall be regarded, for the purposes of this section, as liability in India of a scheduled bank, the decision of the Bank thereon shall be final.";

(d) in subsection (2),—

(i) for the words "at the close of business on each Friday, and every such return shall be sent not later than five days after the date to which it relates", the words "at the close of business on each alternate Friday, and every such return shall be sent not later than seven days after the date to which it relates" shall be substituted ;

(ii) in the second proviso, after the words "Provided further that where", the words "such alternate". shall be inserted;

(iii) for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that where the Bank is satisfied that the furnishing of a fortnightly return under this subsection is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may allow such bank—

(i) to furnish a provisional return for the fortnight within the period aforesaid to be followed by a final return not later than twenty days after the date to which it relates, or

(ii) to furnish in lieu of a fortnightly return a monthly return to be sent not later than twenty days after the end of the month to which it relates giving the details specified in this subsection in respect of such bank at the close of business for the month.";

(e) after subsection (2), the following sub section shall be inserted, namely:—

"(2A) Where the last Friday of a month is not an alternate Friday for the purpose of subsection (2), every scheduled bank shall send to the Bank, a special return giving the details specified in sub section (2) as at the close of business on such last Friday or where such last Friday is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881) as at the close of business on the preceding working day and such return shall be sent not later than seven days after the date to which it relates.";

(f) in subsections (3) and (3A), for the word "week" wherever it occurs, the word "fortnight" shall be substituted.

7. *Amendment of section* 43.—In section 43 of the Reserve Bank Act, for the word "week", the word "fortnight" shall be substituted.

8. *Amendment of section* 45H.—In section 45H of the Reserve Bank Act, for the words and figures "a banking institution notified under section 51 of that Act", the words, brackets, letters and figures "a corresponding

new bank as defined in clause (da) of section 5 of that Act or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959)" shall be substituted.

9. *Amendment of section* 451.—In section 451 of the Reserve Bank Act,—

(i) for clause (bb), the following clause shall be substituted, namely:—

'(bb) "deposit" includes and shall be deemed always to have include any receipt of money by way of deposit or loan or in any other form, but does not include,—

(i) amounts raised by way of share Capital;

(ii) amounts contributed as capital by partners of a firm;

(iii) amounts received from a scheduled bank or a Co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(iv) any amount received from,—

(a) the Development Bank,

(b) a State Financial Corporation,

(c) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, 18 of 1964, or

(d) any other institution that may be specified by the Bank in this behalf;

(v) amounts received in the ordinary course of business, by way of—

(a) Security deposit,
(b) dealership deposit,
(c) earnest money, or.

(d) advance against orders for goods, properties or services;

(vi) any amount received from an individual or a firm or an association of individuals, not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in any State; and

(vii) any amount received by way of subscriptions in respect of a chit.

Explanation I.—"Chit" has the meaning assigned to it in clause (b) of section 2 of the Chit Funds Act, 1982 (40 of 1982).

Explanation II.—Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this clause;';

(ii) in clause (d), the words ", of which the capital subscribed by its partners exceeds one lakh of rupees" shall be omitted;

(iii) in clause (e), for the words, "co-operative society or firm", the words "or co-operative society" shall be substituted.

10. *Insertion of new Chapter after Chapter IIIB.*—After Chapter IIIB of the Reserve Bank Act, the following Chapter shall be inserted, namely:—

"CHAPTER IIIC

PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES

45R. *Interpretation.*—The words and expressions used in this Chapter and defined in Chapter IIIB shall have the meanings respectively assigned to them therein.

45S. *Deposits not to be accepted in certain cases.*—(1) No person, being an individual or a firm or an unincorporated association of individuals shall, at any time, have deposits from more than the number of depositors specified against each, in the table below:—

TABLE

(i) Individual	Not more than twenty-five depositors, excluding depositors who are relatives of the individual.
(ii) Firm	Not more than twenty-five depositors per partner and not more than two hundred and fifty depositors in all, excluding, in either case, depositors who are relatives of any of the partners.
(iii) Unincorporated association of individuals	Not more than twenty-five depositors per individual and not more than two hundred and fifty depositors in all, excluding, in either case, depositors who are relatives of any of the individuals constituting the association.

(2) Where at the commencement of section 10 of the Banking Laws (Amendment) Act, 1983, the deposits held by any such person are not in accordance with sub-section (1), he shall, before the expiry of a period of two years from the date of such commencement, repay such of the deposits as are necessary for bringing the number of depositors within the relative limits specified in that sub-section.

Explanation.—For the purposes of this section,—

a person shall be deemed to be a relative of another if, and only if,—

(i) they are members of a Hindu undivided family; or

(ii) they are husband and wife; or

(iii) the one is related to the other in the manner indicated in the List of relatives below:—

List of Relatives

1. Father. 2. Mother (including step-mother). 3. Son (including step-son). 4. Son's wife. 5. Daughter (including step-daughter). 6. Father's father. 7. Father's mother. 8. Mother's mother. 9. Mother's father. 10. Son's son. 11. Son's son's wife. 12. Son's daughter. 13. Son's daughter's husband. 14. Daughter's husband. 15. Daughter's son. 16. Daughter's son's wife. 17. Daughter's daughter. 18. Daughter's daughter's husband. 19. Brother (including step-brother). 20. Brother's wife. 21. Sister (including step-sister). 22. Sister's husband;

(b) a person in whose favour a credit balance is outstanding for a period not exceeding six months in any account relating to mutual dealings in the ordinary course of trade or business shall not, on account of such balance alone, be deemed to be a depositor.

45T. *Power to issue search warrants.*—(1) Any court having jurisdiction to issue a search warrant under the Code of Criminal Procedure, 1973 (2 of 1974) may, on an application by an officer of the Bank or of the State Government authorised in this behalf stating his belief that certain documents relating to acceptance of deposits in contravention of the provisions of section 45S are secreted in any place within the local limits of the jurisdiction of such court, issue a warrant to search for such documents.

(2) A warrant issued under sub-section (1) shall be executed in the same manner and shall have the same effect as a search warrant issued under the Code of Criminal Procedure, 1973 (2 of 1974).".

11. *Amendment of section 58B.*—In section 58B of the Reserve Bank Act, after sub-section (5), the following sub-sections shall be inserted, namely:—

"(5A) If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

(5B) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the First Class to impose sentence of fine in excess of the limit specified in that section on any person convicted under sub-section (5A).".

12. *Amendment of section 58E.*—In section 58E of the Reserve Bank Act, to sub-section (1), the following proviso shall be added, namely:—

"Provided that in respect of any offence punishable under sub-section (5A) of section 58B, a complaint in writing may also be made by an officer of the State Government, generally or specially authorised in writing in this behalf by that Government.".

CHAPTER IV

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

13. *Amendment of section 5.*—In section 5 of the Banking Regulation Act, 1949 (10 of 1949) (hereafter in this Chapter referred to as the Banking Regulation Act),—

(a) for clause (a), the following clause shall be substituted, namely:—

(a) "approved securities" means—

(i) securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Indian Trusts Act, 1882 (2 of 1882).

(ii) such of the securities authorised by the Central Government under clause (f) of section 20 of the Indian Trusts Act, 1882, (2 of 1882) as may be prescribed;';

(b) after clause (d), the following clause shall be inserted, namely:—

'(da) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);';

(c) after clause (ff), the following clauses shall be inserted namely:—

'(ffa) "Development Bank" means the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964 (18 of 1964);

(ffb) "Exim Bank" means the Export-Import Bank of India established under section 3 of the Export-Import Bank of India Act, 1981 (28 of 1981);';

(d) for clause (l), the following clause shall be substituted, namely:—

'(l) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);';

(e) clause (nb) and clause (nc) shall be re-lettered as clause (nd) and clause (ne), respectively, and before clause (nd) as so re-lettered, the following clauses shall be inserted, namely:—

'(nb) "Sponsor Bank" has the meaning assigned to it in the Regional Rural Banks Act, 1976 (21 of 1976);

(nc) "State Bank of India" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955);'.

14. *Amendment of section 7.*—In section 7 of the Banking Regulation Act, in sub-section (1), after the words "shall use as part of its name", the words "or in connection with its business" shall be inserted.

15. *Amendment of section 8.*—In section 8 of the Banking Regulation Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply to any such business as is specified in pursuance of clause (o) of subsection (1) of section 6.".

16 *Amendment of section 10A.*—In section 10A of the Banking Regulation Act, after subsection (2), the following subsection shall be inserted, namely:—

"(2A) Notwithstanding any thing to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force,—

(i) no director of a banking company, other than its chairman or whole-time director, by whatever name called, shall hold office contiuously for a period exceeding eight years;

(ii) a chairman or other whole-time director of a banking company who has been removed from office as such chairman, or whole-time director, as the case may be, under the provisions of this Act shall also cease to be a director of the banking company and shall also not be eligible to be appointed as a director of such banking company, whether by election or co-option or otherwise, for a period of four years from the date of his ceasing to be the chairman or whole-time director, as the case may be.".

17. *Amendment of section 10B.*—In section 10B of the Banking Regulation Act,—

(a) in sub-section (1), for the words "shall have a chairman of its Board of directors", the words "shall have one of its directors as chairman of the Board of directors" shall be substituted;

(b) in sub-section (5), the words "but shall continue in office until his successor assumes office" shall be omitted;

(c) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) A chairman of the Board of directors whose term of office has come to an end, either by reason of his resignation or by reason of expiry of the period of his office, shall, subject to the approval of the Reserve Bank, continue in office until his successor assumes office.".

18. *Insertion of new section 10BB.*—After section 10B of the Banking Regulation Act, the following section shall be inserted, namely:—

"10BB. *Power of Reserve Bank to appoint chairman of a banking Company*—(1) Where the office of the chairman of a banking company is vacant, the Reserve Bank may, if it is of opinion that the continuation of such vacancy is likely to adversely affect the interests of the banking company, appoint a person, eligible under sub-section (4) of section 10B to be so appointed, to be the chairman of the banking company and where the person so appointed is not a director of such banking company, he shall, so long as he holds the office of the chairman, be deemed to be a director of the banking company.

(2) The chairman so appointed by the Reserve Bank shall be in the whole-time employment of the banking company and shall hold office for such period not exceeding three years, as the Reserve Bank may specify, but shall, subject to other provisions of this Act, be eligible for reappointment.

(3) The chairman so apponited by the Reserve Bank shall draw from the banking company such pay and allowances as the Reserve Bank may determine and may be removed from office only by the Reserve Bank.

(4) Save as otherwise provided in this section, the provisions of section 10B shall, as for as may be, apply to the chairman appointed by the Reserve Bank under sub-section (1) as they apply to a chairman appointed by the banking company.".

19. *Substitution of new section for section 10C.*—For section 10C of the Banking Regulation Act, the following section shall be substituted, namely:—

"10C. *Chairman and certain directors not to be required to hold qualification shares.*—A Chairman of a bank company (by whomsoever appointed) and a director of a banking company (appointed by the Reserve Bank under section 10A) shall not be required to hold qualification shares in the banking company.".

20. *Amendment of section 10D.*—In section 10D of the Banking Regulation Act, after the words, figures and letters "in pursuance of section 10A or section 10B" the words, figures and letters "or section 10BB" shall be inserted.

21. *Substitution of new section for section* 18.—For section 18 of the Banking Regulation Act, the following section shall be substituted, namely:—

'18. *Cash reserve.*—(1) Every banking company, not being a scheduled bank, shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve Bank, or by way of net balance in current accounts or in one or more of the aforesaid ways, a sum equivalent to at least three per cent, of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the twentieth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), at the close of business on the preceding working day.

Explanation.—In this section, and in section 24,—

(*a*) "liabilities in India" shall not include—

(*i*) the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company;

(*ii*) any advance taken from the Reserve Bank or from the Development Bank or from the Exim Bank or from the National Bank by the Banking company;

(*iii*) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;

(*b*) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;

(*c*) "net balance in current accounts" shall, in relation to a banking company, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that banking company with State Bank of India or a subsidiary bank or a corresponding new bank over the aggregate of the credit balances in current account held by the said banks with such banking company;

(*d*) for the purposes of computation of liabilities, the aggregate of the liabilities of a banking company to the State Bank of India, a subsidiary bank, a corresponding new bank, a regional rural bank, another banking company, a co-operative bank or any other financial institution notified by the Central Government in this behalf, shall be reduced by the aggregate of the liabilities of all such banks and institutions to the banking company;

(*e*) the expression "co-operative bank" shall have the meaning assigned to it in clause (*cci*) of section 56.

(2) The Reserve Bank may, for the purposes of this section and section 24, specify from time to time with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a banking company and, if any question arises as

to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24 as liability in India of a banking company, the decision of the Reserve Bank thereon shall be final.'.

22. *Amendment of section* 19.—In section 19 of the Banking Regulation Act, for sub-section (1), the following sub-section shall be substituted namely:—

"(*1*) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely:—

(*a*) the undertaking of any business which, under clauses (*a*) to (*o*) of sub-section (1) of section 6, is permissible for a banking company to undertake, or

(*b*) with the previous permission in writing of the Reserve Bank, the carrying on of the business of banking exclusively outside India, or

(*c*) the undertaking of such other business, which the Reserve Bank may, with the prior approval of the Central Government, consider to be conducive to the spread of banking in India or to be otherwise useful or necessary in the public interest.

Explanation:—For the purposes of section 8, a banking company shall not be deemed, by reason of its forming or having a subsidiary company, to be engaged indirectly in the business carried on by such subsidiary company.".

23. *Amendment of section 20.*—In section 20 of the Banking Regulation Act, in sub-section (*1*), in clause (*b*), in sub-clause (*iii*), after the words "of which", the words "or the subsidiary or the holding company of which" shall be inserted.

24. *Insertion of new section 21A.*—After section 21 of the Banking Regulation Act, the following section shall be inserted, namely:—

"21 A. *Rates of interest charged by banking companies not to be subject to scrutiny by courts.*—Notwithstanding anything contained in the Usurious Loans Act, 1918, (10 of 1918), or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any Court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive.".

25. *Amendment of section* 22.—In section 22 of the Banking Regulation Act—

(i) in sub-section (3),—

(a) in the opening portion, the words "all or any of" shall be omitted;

(b) for clause (c), the following clauses shall be substituted, namely:—

"(c) that the general character of the proposed management of the company will not be prejudicial to the public interest or the interest of its depositors;

(d) that the company has adequate capital structure and earning prospects;

(e) that the public interest will be served by the grant of a licence to the company to carry on banking business in India;

(f) that having regard to the banking facilities available in the proposed principal area of operations of the company, the potential scope for expansion of banks already in existence in the area and other relevant factors the grant of the licence would not be prejudicial to the operation and consolidation of the banking system consistent with monetary stability and economic growth ;

(g) any other condition, the fulfilment of which would, in the opinion of the Reserve Bank, be necessary to ensure that the carrying on of banking business in India by the company will not be prejudical to the public interest or the interests of the depositors.";

(ii) after subsection (3), the following subsection shall be inserted, namely:—

"(3A) Before granting any licence under this section to a company incorporated outside India, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that the conditions specified in sub-section (3) are fulfilled and that the carrying on of banking business by such company in India will be in the public interest and that the Government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered in India and that the company complies with all the provisions of this Act applicable to banking companies incorporated outside India.";

(iii) in subsection (4), in clause (iii), after the word, brackets and figure "subsection (3)" the words, brackets, figure and letter "and sub-section (3A)" shall be inserted.

26. *Amendment of section* 24—In section 24 of the Banking Regulation Act,—

(a) in sub-section (1), for the words" time and demand liabilities", the words "demand and time liabilities" shall be substituted ;

(b) in sub-section (2A),—

(i) in clause (a), for the words and figures" shall maintain in India in cash, gold or unencumbered approved securities valued at a price not exceeding the current market price an amount which shall not at the close of business on any day be less than 25 per cent of the total of its demand and time liabilities in India", the following shall be substituted, namely:—

"shall maintain in India,—

(A) in cash, or

(B) in gold valued at a price not exceeding the current market price or in unencumbered approved securities, valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time.

an amount which shall not, at the close of business on any day, be less than twenty-five per cent or such other percentage not exceeding forty per cent, as the Reserve Bank may, from time to time by notification in the Official Gazette, specify of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight";

(ii) for clause (b), thef ollowing clause shall be substituted namely:—

"(b) in computing the amount for the purposes of clause (a),—

(i) the deposit required under subsection (2) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India;

(ii) any cash or balances maintained in India by a banking company other than a scheduled bank with itself or with the Reserve Bank or by way of net balance in current account in excess of the aggregate of the cash or balance or net balance required to be maintained under section 18:

(iii) any balances maintained by a scheduled bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) the net balance in current accounts maintained in India by a scheduled bank;

(v) any balances maintained by a Regional Rural Bank incall or fixed deposit with its Sponsor Bank,

shall be deemed to be cash maintained in India.";

(iii) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—For the purpose of clause (a) of this sub-section, the market price of an approved security shall be the price as on the date of the issue of the notification or as on any earlier or later date as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities.";

(c) in sub-section (2B), the words and figures "established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976)" shall be omitted ;

(d) for sub-section (3), the following sub-section shall be substituted, namely:—

'(3) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than twenty days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section and its demand and time liabilities in India at the close of business on each alternate Friday during the month, or if any such Friday is a public holiday, at the close of business on the preceding working day:

Provided that every Regional Rural Bank shall also furnish a copy of the said return to the National Bank.

(4) (a) If on any alternate Friday or, if such Friday is a public holiday, on the preceding working day, the amount maintained by a banking company at the close of business on that day falls below the minimum prescribed by or under clause (a) of sub-section (2A), such banking company shall be liable to pay to the Reserve Bank in respect of that day's default, penal interest for that day at the rate of three per cent per annum above the bank rate on the amount by which the amount actually maintained falls short of the prescribed minimum on that day; and

(b) if the default occurs again on the next succeeding alternate Friday, or, if such Friday is a public holiday, on the preceding working day, and continues on succeeding alternate Fridays or preceding working days, as the case may be, the rate of penal interest shall be increased to a rate of five per cent per annum above the bank rate on each such shortfall in respect of that alternate Friday and each succeeding alternate Friday or preceding working day, if such Friday is a public holiday, on which the default continues.

(5) (a) Without prejudice to the provisions of sub-section (3), the Reserve Bank may require a banking company to furnish to it a return in the form and manner specified by it showing particulars of its assets maintained in accordance with this section and its demand and time liabilities in India, as at the close of business on each day of a month; and

(b) without prejudice to the provisions of sub-section (4), on the failure of a banking company to maintain as on any day, the amount so required to be maintained by or under clause (a) of sub-section (2A) the Reserve Bank may, in respect of such default, require the banking company to pay penal interest for that day as provided in clause (a) of sub-section (4) and if the default continues on the next succeeding working day, the penal interest may be increased as provided in clause (b) of sub-section (4) for the concerned days.

(6) (a) The penalty payable under sub-section (4) and sub-section (5) shall be paid within a period of fourteen days from the date on which a notice issued by the Reserve Bank demanding payment of the same is served on the banking company and in the event of failure of the banking company to pay the same within such period, the penalty may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting banking company is situated, such direction to be made only upon an application made by the Reserve Bank in this behalf to the court ; and

(b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the banking company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit.

(7) When under the provisions of clause (b) of sub-section (4) penal interest at the increased rate of five per cent above the bank rate has become payable by a banking company, if thereafter the amount required to be maintained on the next succeeding alternate Friday, or if such Friday is a public holiday, the next preceding working day, is still below the prescribed minimum, every director, manager or secretary of the banking company who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent alternate Friday or the preceding working day, as the case may be, on which the default continues,

(8) Notwithstanding anything contained in this section, if the Reserve Bank is satisfied, on an application in writing by the defaulting banking company, that the banking company had sufficient cause for its failure to comply with the provisions of clause (a) of sub-section (2A), the Reserve Bank may not demand the payment of the penal interest.

Explanation.—In this section, the expression "public holiday" means a day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881).'.

27. *Amendment of section* 29.—In section 29 of the Banking Regulation Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Notwithstanding anything to the contrary contained in sub-section (3) of section 210 of the Companies Act, 1956 (1 of 1956), the period to which the profit and loss account relates shall, in the case of a banking company, be the period ending with the last working day of the year immediately preceding the year in which the annual general meeting is held.".

28. *Amendment of section* 34*A*.—In section 34A of the Banking Regulation Act, for sub-section (3), the following sub-section shall be substituted, namely:—

'(3) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank, the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank.'.

29. *Amendment of section* 35.—In section 35 of the Banking Regulation Act,—

(i) after sub-section (1) the following sub-section shall be inserted and shall be deemed to have always been so inserted, namely:—

"(1A) (a) Notwithstanding anything to the contrary contained in any law for the time being in force and without prejudice to the provisions of sub-section (1), the Reserve Bank, at any time, may also cause a scrutiny to be made by any one or more of its officers, of the affairs of any banking company and its books and accounts; and

(b) a copy of the report of the scrutiny shall be furnished to the banking company if the banking company makes a request for the same or if any adverse action is contemplated against the banking company on the basis of the scrutiny.";

(ii) in sub-section (2), after the words, brackets and figure "any officer making an inspection under sub-section (1)", the words, brackets, figures and letter "or a scrutiny under sub-section (1A)" shall be inserted;

(iii) in subsection (3), afterthe words, brackets and figure "inspection under sub-section (1)", the words, brackets, figure and letter "or a scrutiny under sub-section (1A)" shall be inserted;

(iv) in sub-section (4), after the words "on any inspection", the words "or scrutiny" shall be inserted.

30. *Amendment of section* 35B.—In section 35B of the Banking Regulation Act,—

(i) in sub-section (1), in clause (a), after the words "any provision relating to", the words "the maximum permissible number of directors or" shall be inserted;

(ii) in sub-section (2), for the words and figures "provisions of sections 310", the words and figures "provisions of sections 269, 310" shall be substituted ;

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Nothing contained in section 198 of the Companies Act, 1956 (1 of 1956) shall apply to a banking company and the provisions of sub-section (1) of section 309 and of section 387 of that Act shall, in so far as they are applicable to a banking company, have effect as if no reference had been made in the said provisions to section 198 of that Act.".

31. *Amendment of section 36AB.*—In section 36AB of the Banking Regulation Act, in sub-section (1), the proviso shall be omitted.

1 32. *Amendment of section 36AD.*—In section 36AD of the Banking Regulation Act, for sub-section (3), the following sub-section shall be substituted namely:—

'(3) For the purposes of this section "banking company" includes the Reserve Bank, the Development Bank, the Exim Bank, the National Bank, the State Bank of India, a corresponding new bank, a regional rural bank and a subsidiary bank.'.

33. *Amendment of section 42.*—In section 42 of the Banking Regulation Act,—

(i) for the words and figures "sections 460, 464 and 465", the words and figures "section 460" shall be substituted ; and

(ii) the words "or with the appointment of a committee of, inspection" shall be omitted.

34. *Amendment of section 45.*—In section 45 of the Banking Regulation Act,—

(a) in sub-section (5), in clause (i),—

(i) in the first proviso, for the words "as are applicable", in the two places where they occur, the words "as are, at the time of such payment or grant, applicable" shall be substituted ;

(ii) in the second proviso, for the words "the doubt or difference shall be referred", the words "the doubt or difference shall be referred, before the expiry of a period of three years from the date of the payment or grant mentioned in that clause," shal be substituted ;

(b) in sub-section (8), the following shall be inserted at the end, namely:—

"including the trustees or other persons managing, or connected in any other manner with, any provident fund or other fund maintained by any of those companies or the transferee bank";

(c) in sub-section (9), for the words "On and from such date as may be specified by the Central Government in this behalf," the words "On and from the date of the coming into operation of, or as the case may be, the date specified in this behalf in, the scheme" shall be substituted ;

(d) in sub-section (15), for the words and figures "any other banking institution notified by the Central Government under section 51", the words "a subsidiary bank or a corresponding new bank" shall be substituted ;

(e) the following *Explanation* shall be inserted at the end namely:—

"*Explanation.*—References in this section to the terms and conditions of service as applicable to an employee shall not be construed as extending to the rank and status of such employee.".

35. *Amendment of sections 45A and 45J.*—In sections 45A and 45J of the Banking Regulation Act, for the words and figures "Code of Criminal Procedure 1898 (5 of 1898)", wherever they occur, the words and figures "Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted and in subsection (5) of the said section 45J, the words "and all such trials shall be without the aid of a jury" shall be omitted.

36. *Amendment of section 45S.*—In section 45S of the Banking Regulation Act, for the words "Chief Presidency Magistrate or the District Magistrate", wherever they occur, the words "Chief Metropolitan Magistrate or the Chief Judicial Magistrate" shall be substituted.

37. *Insertion of new Part IIIB.*—After section 45X of the Banking Regulation Act, the following Part shall be inserted, namely:—

"PART IIIB

PROVISIONS RELATING TO CERTAIN OPERATIONS OF BANKING COMPANIES

45Y. *Power of Central Government to make rules for the Preservation of records.*—The Central Government may, after consultation with the Reserve Bank and by notification in the official Gazette, make rules specifying the periods for which—

(a) a banking company shall preserve its books, accounts and other documents ; and

(b) a banking company shall preserve and keep with itself different instruments paid by it.

45Z. *Return of paid instruments to customers.*—(1) Where a banking company is required by its customer to return to him a paid instrument before the expiry of the period specified by rules made under section 45Y, the banking company shall not return the instrument except after making and keeping in its possession a true copy of all relevant parts of such instrument, such copy being made by a mechanical or other process which in itself ensures the accuracy of the copy.

(2) The banking company shall be entitled to recover from the customer the cost of making such copies of the instrument.

Explanation.—In this section, "customer" includes a Government department and a corporation incorporated by or under any law.

45ZA. *Nomination for payment of depositors' money.*—(1) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company.

(2) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such depost, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount of deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to receive the amount of deposit in the event of his death during the minority of the nominee.

(4) Payment by a banking company in accordance with the provisions of this section shall constitute a full discharge to the banking company of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall effect the right or claim which any person may have against the person to whom any payment is made under this section.

45ZB. *Notice of claims of other persons regarding deposits not receivable.*—No notice of the claim of any person, other than the person or persons in whose name a deposit is held by a banking company, shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such deposit is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

45ZC. *Nomination for return of articles kept in safe custody with banking company.*—(1) Where any person leaves any article in safe custody with a banking company, such person may nominate, in the prescribed manner, one person to whom, in the event of the death of the person leaving the article in safe custody, such article may be returned by the banking company.

(2) Where the nominee is a minor, it shall be lawful for the person making the nomination to appoint in the prescribed manner any person to receive the article deposited in the event of his death during the minority of the nominee.

(3) The banking company shall, before returning any articles under this section to the nominee or the person appointed under subsection (2), prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the said articles which shall be signed by such nominee or person and shall deliver a copy of the inventory so prepared to such nominee or person.

(4) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such article, where a nomination made in the prescribed manner purports to confer on any person the right to receive the article from the banking company, the nominee shall, on the death of the person leaving the article in safe custody, become entitled to the return of the article to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner :

Provided that nothing contained in this section shall affect the right or claim which any person may have against the person to whom the article is returned in pursuance of this subsection.

45ZD. *Notice of claims of other persons regarding articles not receivable.*—No notice of the claim of any person, other than the person of persons in whose name any article is held by a banking company in safe custody, shall be receivable by the banking company, nor shall the banking company be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such article is produced before a banking company, the banking company shall take due note of such decree, order, certificate or other authority.

45ZE. *Release of contents of safety lockers.*—(1) Where an individual is the sole hirer of a locker from a banking company, whether such locker is located in the safe deposit vault of such banking company or elsewhere, such individual may nominate one person to whom, in the event of the death of such individual, the banking company may give access to the locker and liberty to remove the contents of the locker.

(2) Where any such locker is hired from a banking company by two or more individuals jointly, and under the contract of hire, the locker is to be operated under the joint signatures of two or more of such hirers, such hirers may nominate one or more persons to whom, in the event of the death of such joint hirer or hirers, the banking company may give, jointly with the surviving joint hirer or joint hirers, as the case may be, access to the locker and liberty to remove the contents of such locker.

(3) Every nomination under subsection (1) or subsection (2) shall be made in the prescribed manner.

(4) The banking company shall, before permitting the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the contents of the locker which shall be signed by such nominee or jointly by such nominee and survivors and shall deliver a copy of the inventory so prepared to such nominee or nominee and survivors.

(5) On the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, the liability of the banking company in relation to the contents of the locker shall stand discharged.

(6) No suit, prosecution or other legal proceeding shall lie against a banking company for any damage caused or likely to be caused, for allowing access to any locker, and liberty to remove the contents of such locker, in pursuance of the provisions of subsection (1) or subsection (2), as the case may be.

45ZF. *Notice of claims of other persons regarding safety lockers not receivable.*—No notice of the claim of any person, other than hirer or hirers of a locker, shall be receivable by a banking company nor shall the banking company be bound by any such notice even though expressly given to it:

provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to the locker or its contents is produced before the banking company, the banking company shall take due note of such decree, order, certificate or other authority.".

38. *Amendment of section* 46.—In section 46 of the Banking Regulation Act,—

(i) in subsection (2), for the words "an officer making an inspection under that section", the words "an officer making an inspection or scrutiny under that section" shall be substituted;

(ii) for subsection (4), the following subsection shall be substituted, namely:—

"(4) If any other provision of this Act is contravened or if any default is made in—

(i) complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, or

(ii) carrying out the terms of, or the obligations under, a scheme sanctioned under sub-section (7) of section 45,

by any person, such person shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one with a further fine which may extend to one hundred rupees for every day, during which the contravention or default continues.".

39. *Amendment of section* 47.—In section 47 of the Banking Regulation Act, for the words "no court inferior to that of a Presidency Magistrate or a magistrate of the first class", the words "no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or any court superior thereto" shall be substituted.

40. *Amendment of Section* 51.—Section 51 of the Banking Regulation Act shall be renumbered as subsection (1) of that section, and—

(a) in subsection (1) as so re-numbered—

(i) for the figures, words, brackets and letters "19 to 21, 23 to 28, 29 [excluding subsection (3)] 31, 34, 35, 35A, 36 [excluding clause (d) of sub-section (1)] 46 to 48", the figures words, letters and brackets "19 to 21A, 23 to 28, 29 [excluding subsection (3)], 31, 34, 35, 35A, 36 [excluding clause (a) of subsection (1)], 45Y to 45ZF, 46 to 48" shall be substituted;

(ii) for the words, figures and brackets "or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976) or any corresponding new bank constituted under section 3 of the Banking Bompanies (Aequisition and Transfer of undertakings) Act, 1980 (40 of 1980), or any other banking institution notified by the Central Government in this behalf", the words "or any corresponding new bank or a Regional Rural Bank or any subsidiary bank" shall be substituted;

(iii) in the proviso,—

(A) in clause (a), for the words "general manager", the words "managing director" shall be substituted;

(B) for clauses (b) and (c), the following clauses shall be substituted, namely:—

"(b) nothing contained in sub-clause (iii) of clause (b) of subsection (1) of section 20 shall apply to any bank referred to in subsection (1), insofar as the said sub-clause (iii) of clause (b) precludes that bank from entering into any commitment for granting any loan or advance to or on behalf of a company (not being a Government company) in which not less than forty per cent of the paid-up capital is held (whether singly or

taken together) by the Central Government or the Reserve Bank or a corporation owned by that bank; and

(c) nothing contained in section 46 or in section 47A shall apply to,—

(i) an officer of the Central Government or the Reserve Bank, nominated or appointed as director of the State Bank of India or any corresponding new bank or a Regional Rural Bank or any subsidiary bank or a banking company; or

(ii) an officer of the State Bank of India or a corresponding new bank or a Regional Rural Bank or a subsidiary bank nominated or appointed as director of any of the said banks [not being the bank of which he is an officer] or of a banking company";

(b) after subsection (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) References to a banking company in any rule or direction relating to any provision of this Act referred to in subsection (1) shall, except where such rule or direction provides otherwise, be construed as referring also to the State Bank of India, a corresponding new bank, a Regional Rural Bank and a subsidiary bank.".

41. *Amendment of section 52.*—In section 52 of the Banking Regulation Act,—

(a) subsection (3) shall be omitted;

(b) after subsection (4), the following subsection shall be inserted, namely:—

"(5) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

42. *Amendment of section* 56—In section 56 of the Banking Regulation Act,—

(i) for sub-clause (ii) of clause (c), the following sub-clause shall be substituted, namely:—

"(ii) clauses (ff), (h) and (nb) shall be omitted;";

(ii) for clause (f), the following clause shall be substituted, namely:—

'(f) for section 7, the following section shall be substituted, namely:—

"7. *Use of words "bank", "banker" or "banking".*—(1) No co-operative society other than a co-operative bank shall use as part of its name or in connection with its business any of the work "bank" "banker" or "banking" and no co-operative society shall carry on the bussiness of banking in India unless it uses as part of its name as least one of such words.

(2) Nothing in this section apply to—

(a) a primary credit society, or

(b) a co-operative society formed for the protection of the mutual interest of co-operative banks or co-operative land mortgage banks, or

(c) any co-operative society, not being a primary credit society, formed by the employees of—

(i) a banking, company or the State Bank of India or a corresponding new bank or a subsidiary bank of such banking company, State Bank of India or a corresponding new bank, or

(ii) a co-operative bank or a primary credit society or a co-operative land mortgage bank,

insofar as the word "bank" "banker" or "banking" appears as part of the name of the employer bank, or as the case may be, of the bank, whose subsdiary the employer bank is.";

(iii) after clause (f), the following clauses shall be inserted, namely:—

'(fi) in section 8, for the proviso, the following proviso shall be substituted, namely:—

"Provided that this section shall not apply—

(a) to any such business as aforesaid which was in the course of being transacted on the commencement of clause (iii) of section 42 of the Banking Laws (Amendment) Act, 1983, so, however, that the said business shall be completed before the expiry of one year from such commencement; or

(b) to any business as is specified in pursuance of clause (o) of subsection (1) of section 6;";

(iii) in section 9, for the second proviso, the following provisos shall be substituted, namely:—

"Provided further that in the case of a primary credit society which becomes a primary co-operative bank after the commencement of clause (iii) of section 42 of the Banking Laws (Amendment) Act, 1983, the period of seven years shall commence from the day it so becomes a primary co-operative bank:

Provided also that the Reserve Bank may, in any particular case, extend the aforesaid period of seven years by such period as it may consider necessary where it is satisfied that such extension would be in the interests of the depositors of the co-operative bank."';

(iv) in clause (g), for the figures and letters "10B, 10C", the figures and letters "10B, 10BB, 10C" shall be substituted;

(v) for clause (j), the following clause shall be substituted, namely:—

'(j) for section 18, the following section shall be substituted, namely:—

"18 *Cash reserve.*—(1) Every co-operative bank, not being a State co-operative bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934) (hereinafter referred to as a "scheduled State Co-operative Bank"), shall maintain in India by way of cash reserve with itself or by way of balance in a current account with the Reserve Bank or the State co-operative bank of the State concerned or by way of net balance in current accounts, or, in the case of a primary co-operative bank, with the central co-operative bank of the district concerned or in one or more of the aforesaid ways, a sum equivalent to at least three per cent. of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight and shall submit to the Reserve Bank before the fifteenth day of every month a return showing the amount so held on alternate Fridays during a month with particulars of its demand and time liabilities in India on such Fridays or if any such Friday is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), at the close of business on the preceding working day.

Explanation.—In this section and in section 24—

(a) "Liabilities in India" shall not include—

(i) the paid-up capital or the reserves or any credit balance in the profit and loss account of the co-operative bank;

(ii) any advance taken from a State Government, the Reserve Bank, the Development Bank, the Exim Bank, the National Bank or from the National Co-operative Development Corporation established under section 3 of the National Co-operative Development Corporation Act, 1962 (26 of 1962), by the co-operative bank;

(iii) in the case of a State or Central co-operative bank, also any deposit of money with it representing the reserve fund or any part thereof maintained with it by any other co-operative society within its area of operation, and in the case of a central co-operative bank, also an advance taken by it from the State co-operative bank of the State concerned;

(iv) in the case of a primary co-operative bank, also any advance taken by it from the State co-operative bank of the State concerned or the Central co-operative bank of the district concerned;

(v) in the case of any co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance; and

(vi) in the case of any co-operative bank, the amount of any advance or other credit arrangement drawn and availed of against approved securities;

(b) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;

(c) "net balance in current accounts" shall, in relation to a co-operative bank, mean the excess, if any, of the aggregate of the credit balances in current account maintained by that co-operative bank with the State Bank of India or a subsidiary bank or a corresponding new bank, over the aggregate of the credit balances in current accounts held by the said banks with such co-operative bank;

(d) for the purpose of computation of liabilities, the aggregate of the liabilities of a co-operative bank to the State Bank of India, a subsidiary bank, a corresponding new bank, a Regional Rural Bank, a banking company or any other financial institution notified by the Central

Government in this behalf shall be reduced by the aggregate of the liabilities of all such banks and institutions to the co-operative bank;

(e) any cash with a co-operative bank or any balance held by a co-operative bank with another bank, shall not, to the extent such cash or such balances represents the balance in, or investment of, Agricultural Credit Stabilisation Fund of such co-operative bank, be deemed to be cash maintained in India.

(2) The Reserve Bank may, for the purposes of this section and section 24 specify from time to time, with reference to any transaction or class of transactions, that such transaction or transactions shall be regarded as liability in India of a co-operative bank, and if any question arises as to whether any transaction or class of transactions shall be regarded for the purposes of this section and section 24 as liability in India of a co-operative bank, the decision of the Reserve Bank thereon shall be final." ';

(vi) for clause (m), the following clause shall be substituted, namely:—

'(m) in section 21A, in sub-section (1),—

(i) the words and figures "Notwithstanding anything to the contrary contained in section 293 of the Companies Act 1956 (1 of 1956)," shall be omitted;

(ii) in clause (a), for the words "any of its directors", the words "any of its past or present directors" shall be substituted;';

(vii) in clause (o) relating to the modification of section 22,—

(A) in sub-clause (i) for sub-section (2) of section 22 aforesaid as substituted by that sub-clause, the following sub-section shall be substituted, namely:—

"(2) Every co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 (23 of 1965), shall before the expiry of three months from such commencement, every co-operative bank which comes into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business shall, before the expiry of three months from its coming into existence, every primary credit society which becomes a primary co-operative bank after such commencement shall, before the expiry of three months from the date on which it so becomes a primary co-operative bank and every co-operative society other than a primary

credit society shall before commencing banking business in India, apply in writing to the Reserve Bank for a licence under this section :

Provided that nothing in clause (b) of sub-section (1) shall be deemed to prohibit—

(i) a co-operative society carrying on business as a co-operative bank at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 (23 of 1965) ; or

(ii) a co-operative bank which has come into existence as a result of the division of any other co-operative society carrying on business as a co-operative bank or the amalgamation of two or more co-operative societies carrying on banking business at the commencement of the Banking Laws (application to Co-operative Societies) Act, 1965 (23 of 1965) or at any time thereafter; or

(iii) a primary credit society which become a primary co-operative bank after such commencement,

from carrying on banking business until it is granted a licence in pursuance of this section or is, by a notice in writing, notified by the Reserve Bank that the licence cannot be granted to it.";

(B) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) sub-section (3A) shall be omitted;

(iii) in sub-section (4) in clause (iii), the words, brackets, figure and letter "and sub-section (3A)" shall be omitted;";

(viii) in clause (p) for sub-clause (ii), the following sub clause shall be substituted, namely:—

'(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) Any co-operative bank other than a primary co-operative bank requiring the permission of the Reserve Bank under thsi section shall forward its application to the Reserve Bank through the National Bank which shall give its comments on the merits of the application and sent it to the Reserve Bank:

Provided that the co-operative bank shall also send an advance copy of the application directly to the Reserve Bank." ';

(ix) for clause (q), the following clause shall be substituted, namely:—

'(q) in section 24,—

(i) in sub-section (1) the words "after the expiry of two years from the commencement of this Act" shall be omitted;

(ii) for sub-sections (2) and (2A), the following sub-sections shall be substituted, namely:—

"(2) In computing the amount for the purpose of sub-section (1)—

(a) any balances maintained in India by a co-operative bank in current account with the Reserve Bank or by way of net balance in current accounts, and in the case of a scheduled State co-operative bank also the balance required under section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), to be so maintained,

(b) any balances maintained by a central co-operative bank with the State co-operative Bank of the State concerned, and

(c) any balances maintained by a primary co-operative bank with central co-operative bank of the district concerned or with the State co-operative bank of the State concerned,

shall be deemed to be cash maintained in India.

(2A) (a) Notwithstanding anything contained in sub-section (1) or in sub-section (2), after the expiry of two years from the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965 (28 of 1965) or of such further period not exceeding one year as the Reserve Bank, having regard to the interests of the co-operative bank concerned, may think fit in any particular case to allow,—

(i) a scheduled State Co-operative bank, in addition to the average daily balance which it is or may be, required to maintain under section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), and

(ii) every other co-operative bank, in addition to the cash reserve which it is required to maintain under section 18,

shall maintain in India, in cash, or in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of the following methods of valuation, namely,

valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time, an amount which shall not, at the close of business on any day, be less than twenty-five per cent or such other percentage not exceeding forty per cent as the Reserve Bank may, from time to time, by notification in the Official Gazette specify, of the total of its demand and time liabilities in India as on the last Friday of the second preceding fortnight.

(b) In computing the amount for the purpose of clause (a), the following shall be deemed to be cash maintained in India, namely:—

(i) any balance maintained by a scheduled State co-operative bank with the Reserve Bank in excess of the balance required to be maintained by it under section 42 of the Reserve Bank of India Act, 1934 (2 of 1934);

(ii) any cash or balances maintained in India by a co-operative bank, other than a scheduled State co-operative bank, with itself or with the State co-operative bank of the State concerned, or in current account with the Reserve Bank or by way of net balance in current accounts and, in the case of a primary co-operative bank, also any balances maintained with the central co-operative bank of the district concerned, in excess of the aggregate of the cash or balances required to be maintained under section 18;

(iii) any net balance in current accounts.

Explanation.—For the purposes of this sub-section—

(a) approved securities, or a portion thereof representing investment of moneys of Agricultural Credit Stabilisation Fund of a co-operative bank shall not be deemed to be unencumbered approved securities;

(b) in case of co-operative bank has taken an advance against any balance maintained with the State co-operative bank of the State concerned or with the central co-operative bank of the district concerned, such balance to the extent to which it has been drawn against or availed of, shall not be deemed to be cash maintained in India;

(c) for the purpose of clause (a), the market price of an approved security shall be the price as on the date of the issue of the notification or as

on any earlier or later date, as may be notified from time to time by the Reserve Bank in respect of any class or classes of securities;";

(iii) in sub-section (3), for the proviso, the following proviso shall be substituted, namely:

"Provided that every co-operative bank, other than a primary co-operative bank, shall also furnish within the said period, a copy of the said return to the Notional Bank.";

(iv) in sub-section (6), in clause (a), for the words "fourteen days", the words "Thirty days" shall substituted;';

(x) after clause (q), the following clause shall be inserted, namely :—

'(qq) after section 24, the following section shall be inserted, namely :—

"24A. *Power to exempt*.—Without prejudice to the provisions of section 53, the Reserve Bank may, by notification in the Official Gazette, declare that, for such period and subject to such conditions as may be specified in such notification the whole or any part of the provisions of section 18 or section 24, as may be specified therein, shall not apply to any co-operative bank or class of co-operative banks, with reference to all or any of the offices of such co-operative bank or banks, or with reference to the whole or any part of the assets and liabilities of such co-operative bank or banks." ';

(xi) in clause (w) relating to the modification of section 35,—

(a) in subclause (i), for item (b), the following item shall be substituted, namely :—

'(b) the following proviso shall be inserted at the end, namely:

"Provided that the Reserve Bank may, if it considers it necessary or expendient so to do, cause an inspection to be made of a primary co-operative bank under this sub-section by one or more officers of a State co-operative bank in the State in which such primary co-operative bank is registered." ';

(b) subclauses (iii) and (iv) shall be re-numbered as sub-clauses (iv) and (v) respectively and before subclause (iv) as so re-numbered, the following subclause shall be inserted, namely :—

'(iii) after subsection (4), the following subsection shall be inserted, namely :—

"(4A) Without prejudice to the provisions of sub-section (4), the Reserve Bank may, if it considers it

necessary or expendient so to do supply a copy of the report on any inspection or scrutiny to the State co-operative bank and the Registrar of co-operative societies of the State in which the bank which has been inspected or whose affairs have been scrutinised is registered." ';

(xii) for clause (z), the following clause shall be substituted, namely :—

'(z) in section 36, in subsection (1),—

(a) clause (b) shall be omitted;

(b) for clause (d), the following clause shall be substituted, namely :—

"(d) at any time, if it is satisfied that for the re-organisation or expansion of co-operative credit on sound lines it is necessary so to do, by an order in writing and on such terms and conditions as may be specified therein,—

(i) depute one or more of its officers to watch the proceeding at any meeting of the Board of directors of the co-operative bank or of any other body constituted by it and require the co-operative bank to give an opportunity to the officer so deputed to be heard at such meetings and to offer such advice on such matters as the officer may consider necessary or proper for the reorganisation and expansion of co-operative credit on sound lines, and also require such officer to send a report of such proceedings to the Reserve Bank;

(ii) appoint one or more of its officers to observe the manner in which the affairs of the co-operative bank or its officers or branches are being conducted and make a report thereon;" ';

(xiii) in clause (za) relating to the modification of section 36A, in subclause (ii), in subsection (3) as inserted by that subclause, for the words, brackets, letters and figure "in clause (ccc) of section 5", the words, brackets, letters and figure "in clause (ccv) of section 5" shall be substituted;

"(xiv) after clause (za), the following clause shall be inserted, namely :—

(zaa) in section 36AD, subsection (3) shall be omitted;";

(xv) for clause (zc), the following clause shall be substituted, namely :—

'(zc) in section 46,—

(i) in subsection (4), the word "or" occurring at the end of clause (i) and clause (ii) shall be omitted;

(ii) in clause (a) of the *Explanation*, after the words "includes a", the words "co-operative society" shall be inserted;'.

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

43. *Insertion of new section* 35A.—In Chapter VI, after section 35 of the State Bank of India Act, 1955 (23 of 1955), (hereafter in this Chapter referred to as the State Bank Act), the following section shall be inserted, namely :—

"35A. *Arrangement with the State Bank on appointment of directors to prevail.*—(1) Where any arrangement entered into by the State Bank with a company provides for the appointment by the State Bank of one or more directors of such company, such provisions and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the State Bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

(*a*) hold office during the pleasure of the State Bank and may be removed or substituted by any person by order in writing of the State Bank;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

44. *Amendment of section* 40.—In section 40 of the State Bank Act,—

(i) in subsection (1), for the words "auditors' report on the working of the State Bank", the words "auditors' report and a report by the Central Board on the working and activities of the State Bank" shall be substituted;

(ii) after subsection (3), the following subsection shall be inserted, namely:—

"(4) The Central Government shall cause the auditors' report and the report by the Central Board on the working and activities of the State Bank to be laid, as soon as may be after

they are received, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions.".

45. *Amendment of section* 42.—In section 42 of the State Bank Act, in subsection (2), after the word "working", the words "and activities" shall be inserted.

46.—*Amendment of section* 43.—In section 43 of the State Bank Act, in subsection (2), for the words "as may be", the words "as may, by general or special order, be" shall be substituted.

47. *Amendment of section* 49.—In section 49 of the State Bank Act, after subsection (2), the following subsection shall be inserted, namely:—

"(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.".

48. *Amendment of section* 50.—In section 50 of the State Bank Act, after subsection (3), the following subsection shall be inserted, namely:—

"(4) Every regulation shall, as soon as may be after it is made under this Act by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER VI

AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

49. *In ertion of new section* 36A.—After section 36 of the State Bank of India, (Subs.diary Banks) Act, 1959 (38 of 1959) (hereafter in this Chapter

referred to as the Subsidiary Banks Act) the following section shall be inserted, namely.—

"36A. *Subsidiary bank to act as agent of the Reserve Bank.*—(1) A subsidiary bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India, where it has a branch, for—

(*a*) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(*b*) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(2) The terms and conditions on which any such agency business shall be carried on by the subsidiary bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(3) If, no agreement can be reached on any matter referred to in subsection (2) or if a dispute arises between a subsidiary bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(A) A subsidiary bank may transact any business or perform any functions entrusted to it under subsection (1), by itself or through any agent approved by the Reserve Bank.".

50. *Insertion of new section 38A.*—After section 38 of the Subsidiary Banks Act, the following section shall be inserted, namely:—

"38A. *Arrangement with subsidiary banks on appointment of directors to prevail.*—(1) Where any arrangement entered into by a subsidiary bank with a company provides for the appointment by the subsidiary bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the subsidiary bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the subsidiary bank and may be removed or substituted by any person by order in writing of the subsidiary bank;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

51. *Amendment of section* 43.—In section 43 of the Subsidiary Banks Act,—

(i) in subsection (1),—

(a) in the opening portion, for the words "and the Reserve Bank", the words "the Reserve Bank and the Central Government" shall be substituted;

(b) in clause (a), after the words "on the working", the words "and activities" shall be inserted;

(ii) after subsection (2), the following subsection shall be inserted, namely:—

"(3) The Central Government shall cause the auditor's report and the report by the Board of directors on the working and activities of the subsidiary bank to be laid, as soon as may be after they are received, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive session.".

52. *Amendment of section* 44.—In section 44 of the Subsidiary Banks Act,—

(a) in subsection (1), in the proviso, for the words "the State Bank, or to the Reserve Bank", the words "the State Bank, the Reserve Bank or the Central Government" shall be substituted;

(b) in subsection (2), after the word "working", the words "and activities" shall be inserted.

53. *Amendment of section* 53.—In section 53 of the Subsidiary Banks Act, after subsection (2), the following subsection shall be inserted, namely:—

"(3) Where the State Bank nominates any of its officers as director of a subsidiary bank, such director shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as director or anything in relation thereto.".

54. *Amendment of section* 62.—In section 62 of the Subsidiary Banks Act, for subsection (3), the following subsection shall be substituted, namely:—

"(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any

modification in the rule or both Houses agree that the rule should no be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

55. *Amendment of section* 63.—In section 63 of the Subsidiary Banks Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation shall, as soon as may be after it is made under this Act by the State Bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall hereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER VII

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

56. *Amendment of section* 2.—In section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961) (hereafter in this Chapter referred to as the Deposit Insurance Corporation Act),—

(a) in clause (b), for the words and figures, "a subsidiary bank and any other banking institution notified under section 51 of the Banking Regulation Act, 1949 (10 of 1949)", the words "and a subsidiary bank" shall be substituted;

(b) for clause (ee), the following clause shall be substituted, namely:—

'(ee) "corresponding new bank" means a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or as the case may be, under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);';

(c) in clause (i),—

(i) after the words "banking company" at the first place where they occur, the words "or a corresponding new bank" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1971;

(ii) for sub-clause (i), the following subclauses shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969, namely:—

"(i) a banking company referred to in clause (a) or clause (b) of subsection (1) of section 13, or

(ia) a corresponding new bank to which the provisions of clause (a) of subsection (1) of section 13 apply, or";

(d) in clause (k), the words and figures, "and includes any banking institution notified under section 51 of the said Act after such commencement" shall be omitted.

57. *Amendment of section* 4.—In section 4 of the Deposit Insurance Corporation Act, in subsection (1), for the words "fifteen crores of rupees", the words "fifty crores of rupees" shall be substituted.

58. *Amendment of section* 6.—In section 6 of the Deposit Insurance Corporation Act,—

(a) for subsection (2), the following subsection shall be substituted, namely:—

"(2) (i) A director nominated under clause (b) or clause (c) of subsection (1) shall hold office during the pleasure of the authority nominating him; and

(ii) A director nominated under clause (d) or clause (e) of subsection (1), shall hold office for such period not exceeding four years as may be specified by the Central Government and thereafter until his successor assumes office.";

(b) in subsection (3), in the opening portion, after the word, brackets and letter "clause (d)", the words, brackets and letter "or clause (e)" shall be inserted;

(c) after subsection (4), the following subsection shall be inserted, namely:—

"(5) If a director nominated under clause (e) of subsection (1)—

(a) becomes subject to any of the disqualifications mentioned in clauses (a) to (d) of subsection (3); or

(b) is absent without leave of the Board for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.".

59. *Amendment of section* 11.—In section 11 of the Deposit Insurance Corporation Act, the words and figures, "or, as the case may be, after it is notified under section 51 of the said Act" shall be omitted.

60. *Amendment of section* 13.—In section 13 of the Deposit Insurance Corporation Act, in subsections (2) and (3), the brackets and letter "(b)," shall be omitted.

61. *Amendment of section* 13A.—In section 13A of the Deposit Insurance Corporation Act, in clause (b) of subsection (2), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(iii) every co-operative bank which has come into existence after the commencement of the Deposit Insurance Corporation (Amendment) Act, 1968 (56 of 1968), as a result of the division of any other co-operative society carrying on business as a Co-operative bank, or the amalgamation of two or more co-operative societies carrying on banking business, at the commencement of the Banking Laws (Application to Co-operative Societies) Act, 1965, (23 of 1965), or at any time thereafter, within three months of its having made an application for a licence under the said section:".

62. *Amendment of section* 16.—In section 16 of the Deposit Insurance Corporation Act, in subsection (1), in the proviso, for the words and figures "of section 13", the words, brackets and figures "of subsection (1) of section 13" shall be substituted and shall be deemed to have been substituted with effect from the 19th day of July, 1969.

63. *Amendment of section* 32.—In section 32 of the Deposit Insurance Corporation Act, in subsection (2), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted.

64. *Amendment of section* 50.—In section 50 of the Deposit Insurance Corporation Act, after subsection (3), the following subsection shall be instered, namely:—

"(4) Every regulation shall, as soon as may be after it is made under this Act by the Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament while it is in section, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expriy of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER VIII

Amendments to the Banking Companies (Acquistion and Transfer of Undertakings) Act, 1970

65. *Amendment of section* 3.—In section 3 of the Banking Companies (Acquistion and Transfer of Undertakings) Act, 1970 (5 of 1970) (hereafter in this Chapter referred to as the Bank Nationalisation Act),—

(i) in subsection (5), for the words "one or more forms of business", the words "one or more of the other forms of business" shall be substituted;

(ii) after sub-section (6), the following subsection shall be inserted, namely:—

"(7) (i) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Reserve Bank at all places in India where it has a branch, for—

(a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(b) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(ii) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(iii) If no agreement can be reached on any matter referred to in clause (ii), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(iv) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (i), by itself or through any agent approved by the Reserve Bank.".

66. *Amendment of section* 9.—In section 9 of the Bank Nationalisation Act,—

(i) sub-section (5) shall be re-numbered as sub section (6) and before sub section (6) as so re-numbered, the following sub section and *Explanation* shall be inserted, namely:—

'(5) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (c) of sub-section (2) or any matters incidental, consequential and supplemental thereto,—

(a) the scheme shall be binding on the corresponding new bank or corporations or banking institutions, and also on the members, if any, the depositors, and other creditors

and employees of each of them and on any other persons having any right or liability in relation to any of them including the tustees or other persons, managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(b) the properties and assets of the corresponding new bank, or as the case may be, of the banking institution shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank, or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

'*Explanation*.—In this section, "banking institution" means a banking company and includes the State Bank of India or a subsidiary bank.'.

(ii) in sub-section (6) as so re-numbered, for the words "which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

67. *Amendment of section* 10.—In section 10 of the Bank Nationalisation Act,—

(i) after sub-section (4), the following *Explanations* shall be inserted, namely:—

"*Explanation* I.—For the purposes of this Act—

(a) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(b) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account.

merely by reason of the fact that the blance-sheet or, as the case may be, the profit and loss account, does not disclose any matters which are by the provisions of the Banking Regulation Act, 1949 (10 of 1949), read with the relevant provisions of this Act or any other Act, not required to be disclosed.

Explanation II.—For the purposes of this Act the accounts of the corresponding new bank shall not be deemed as having

not been properly drawn up on the ground merely that they do not disclose certain matters if—

(i) those matters are such as the correspondig new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949 (10 of 1949), read with the relevant provisions of this Act, or any other Act, not required to disclose; and

(ii) the provisions referred to in clause (i) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor's report.";

(ii) after sub-section (7), the following sub-section shall inserted, namely:—

"(7A) Every corresponding new bank shall furnish to the Central Government the annual balance-sheet, the profit and loss account, and the auditor's report and a report by its Board of directors on the working and activities of the bank during the period covered by the accounts.";

(iii) in sub-section (8), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in sessions for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted;

(iv) after sub-section (8), the following sub-section shall be inserted, namely:—

"(9) Without prejudice to the forgoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section.".

68. *Insertion of new section 16A.*—After section 16 of the Bank ionalisation Act, the following section shall be inserted, namely:—

"16A. *Arrangement with corresponding new bank on appointment of directors to prevail.*—(1) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such company, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for

the time being in force or in the memorandum, articles of association or any other instrument relating to the Company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

(a) hold office during the pleasure of the corresponding new bank and may be removed or substituted by any person by order in writing of the corresponding new bank ;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto ;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

69. *Amendment of section* 19.—In section 19 of the Bank Nationalisation Act, after subsection (3), the following sub-section shall be inserted, namely:—

"(4) Every regulation shall as soon as may be after it is made under this Act by the Board of directors of a corresponding new bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER IX

AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976

70. *Amendment of section* 30.—Section 30 of the Regional Rural Banks Act, 1976 (21 of 1976) shall be renumbered as sub-section (1) thereof, and after subsection (1) as so renumbered, the following subsection shall be inserted, namely:—

"(2) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors, be

forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

CHAPTER X

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

71. *Amendment of section 3.*—In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980)[hereafter in this Chapter referred to as the Bank (Second) Nationalisation Act],—

(i) in sub-section (5), for the words "one or more forms of business", the words "one or more of the other forms of business" shall be substituted;

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) (i) The corresponding new bank shall, if so required by the Reserve Bank, act as agent of the Resrve Bank at all places in India where it has a branch, for—

(a) paying, receiving, collecting, and remitting money, bullion and securities on behalf of any Government in India; and

(b) undertaking and transacting any other business which the Reserve Bank may from time to time entrust to it.

(ii) The terms and conditions on which any such agency business shall be carried on by the corresponding new bank on behalf of the Reserve Bank shall be such as may be agreed upon.

(iii) If no agreement can be reached on any matter referred to in clause (ii), or if a dispute arises between the corresponding new bank and the Reserve Bank as to the interpretation of any agreement between them, the matter shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

(iv) The corresponding new bank may transact any business or perform any functions entrusted to it under clause (i), by itself or through any agent approved by the Reserve Bank".

72. *Amendment of section* 9.—In section 9 of the Bank (Second) Nationalisation Act, sub-section (5) shall be re-numbered as sub-section (6) and before sub-section (6) as so re-numbered, the following sub-section and *Explanation* shall be inserted, namely:—

'(5) On and from the date of coming into operation of a scheme made under this section with respect to any of the matters referred to in clause (c) of sub-section (2) or any matters incidental, consequential and supplemental thereto,—

(a) the scheme, shall be binding on the corresponding new bank or, corporations or banking institutions, and also on the members, if any, the depositors, and other creditors and employees of each of them and on any other persons having any right or liability in relation to any of them including the trustees or other persons managing or in any other manner connected with, any provident fund or other fund maintained by any of them;

(b) the properties and assets of the corresponding new bank or, as the case may be, of the banking institution shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vested in, and the liabilities of the corresponding new bank or, as the case may be, of the banking institution shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the corporation or corporations brought into existence by reconstitution of the banking institution or the corresponding new bank, as the case may be.

Explanation.—In this section, "banking institution" means a banking company and includes the State Bank of India or a subsidiary bank.'.

73. *Amendment of section* 10—In section 10 of the Bank (Second) Nationalisation Act,—

(i) after sub-section (4), the following *Explanations* shall be inserted, namely:—

"*Explanation* I.—For the purposes of this Act,—

(a) the balance-sheet shall not be treated as not disclosing a true and fair view of the affairs of the corresponding new bank, and

(b) the profit and loss account shall not be treated as not showing a true balance of profit or loss for the period covered by such account,

merely by reason of the fact that the balance-sheet or, as the case may be, the profit and loss account, does not disclose any matters which are by the provisions of the Banking Regulation Act, 1949 (10 of 1949), read with the relevant provisions of this Act or any other Act, not required to be disclosed.

Explanation II.—For the purposes of this Act, the accounts of the corresponding new bank shall not be deemed as having not been properly drawn up on the ground merely that they do not disclose certain matters if—

(i) those matters are such as the corresponding new bank is, by virtue of any provision contained in the Banking Regulation Act, 1949 (10 of 1949), read with the relevant provisions of this Act, or any other Act, not required to disclose; and

(ii) the provisions referred to in clause (i) are specified in the balance-sheet and profit and loss account of the corresponding new bank or in the auditor's report.";

(ii) after sub-section (7), the following sub-section shall be inserted, namely:—

"(7A) Every corresponding new bank shall furnish to the Central Government the annual balance-sheet, the profit and loss account, and the auditor's report and a report by its Board of directors on the working and activites of the bank during the period covered by the accounts.";

(iii) In sub-section (8), for the words "for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government", the words "as soon as may be after they are received before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions" shall be substituted;

(iv) after sub-section (8), the following sub-section shall be inserted, namely:—

"(*9*) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a corresponding new bank and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the corresponding new bank which an auditor appointed by the corresponding new bank has under this section.".

74. *Inse tion of new section 16A.* After section 16 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

"16A. *Arrangement with corresponding new bank on appointment of dirctors to prevail.*—(1) Where any arrangement entered into by a corresponding new bank with a company provides for the appointment by the corresponding new bank of one or more directors of such

company, scch provisions and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force or in the memorandam, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law of instrument aforesaid, shall not apply to any director appointed by the corresponding new bank in pursuance of the arrangement as aforesaid.

(7) Any director appointed as aforesaid shall—

(*a*) hold office during the pleasure of the corresponding new bank and may be removed or substituted by any person by order in writing of the corresponding new bank;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

75. *Amendment of section 19.*—In section 19 of the Bank (Second) Nationalisation Act, after subsection (3), the following subsection shall be inserted, namely:—

"(*4*) Every regulation shall, as soon as may be after it is made under this Act by the Board of directors of a corresponding new bank, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sesssons, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

Kerala Gazette No. 49 dated 11th December 1984.
PART I **Section i**

GOVERNMENT OF KERALA

Law (Legislation—Publication) Department

NOTIFICATION

No. 16413/Leg.Pbn.2/84/Law. *Dated, Trivandrum, 17th October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II-Section 1, dated the 16th March, 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 16th March, 1984.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE COMPTROLLER AND AUDITOR-GENERAL'S (DUTIES, [POWERS AND CONDITIONS OF SERVICE) AMENDMENT ACT, 1984

(Central Act 2 of 1984)

an

ACT

further to amend the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Camptroller and Auditor-General's (Duties, Powers and conditions of Service) Amendment Act, 1984.

2. *Amendment of section 6.*—In the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 (56 of 1971) (hereinafter referred to as the principal Act), in section 6, after subsection (6), the following subsections shall be inserted, namely:—

"(6A) Notwithstanding anything contained in the foregoing provisions of this section, a person referred to in subsection (1) who demits office [whether in any manner specified in subsection (8) or by resignation] as the Comptroller and Auditor-General after the

commencement of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984, shall, on such demission, be entitled to—

(a) the pension to which he would have been entitled under the rules of the Service to which he belonged by reckoning his service as the Comptroller and Auditor-General as continuing approved service counting for pension in such Service; and

(b) a special pension of seven hundred rupees per annum in respect of each completed year of service as the Comptroller and Auditor-General:

Provided that the aggregate of the amounts payable to him under clause (a) and clause (b) of this subsection shall in no case exceed a sum of twenty thousand and four hundred rupees per annum.

(6B) Notwithstanding anything contained in the foregoing provisions of this section, a person referred to in sub-section (3) who demits office [whether in any manner specified in sub-section (8) or by resignation] as the Comptroller and Auditor-General after the commencement of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984, shall, on such demission, be entitled to—

(a) the pension payable to him in respect of any previous service under Government; and

(b) a special pension of seven hundred rupees per annum in respect of each completed year of service as the Comptroller and Auditor-General:

Provided that the aggregate of the amounts payable to him under clause (a) and clause (b) of this sub-section shall in no case exceed a sum of twenty thousand and four hundred rupees per annum, and such sum shall include the aggregate of all other pensions, if any, payable to him and the commuted portion, if any, of his pension.".

3. *Amendment of section* 14.—Section 14 of the principal Act shall be renumbered as sub-section (1) thereof and—

(a) in the *Explanation* to sub-section (1) as so renumbered,—

(i) for the words "rupees five lakhs", the words "rupees twenty-five lakhs" shall be substituted;

(ii) for the words "this section", the words "this sub-section" shall be substituted;

(b) after sub-section (1), as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) Notwithstanding anything contained in subsection (1), the Comptroller and Auditor-General may, with the previous approval of the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, audit all receipts and expenditure of any body

or authority where the grants or loans to such body or authority from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly, as the case may be, in a financial year is not less than rupees one crore.

(3) Where the receipts and expenditure of any body or authority are, by virtue of the fulfilment of the conditions specified in subsection (1) or sub-section (2), audited by the Comptroller and Auditor-General in a financial year, he shall continue to audit the receipts and expenditure of that body or authority for a further period of two years notwithstanding that the conditions spectfied in sub-section (1) or subsection (2) are not fulfilled during any of the two subsequent years."

4. *Insertion of new section 19A.*—After section 19 of the principal Act, the following section shall be inserted, namely:—

'19A. *Laying of reports in relation to accounts of Government companies and corporations.*—(1) The reports of the Comptroller and Auditor-General, in relation to the accounts of a Government company or a corporation referred to in section 19, shall be submitted to the Government or Governments concerned.

(2) The Central Government shall cause every report received by it under sub-section (1) to be laid, as soon as may be after it is received, before each House of Parliament.

(3) The State Government shall cause every report received by it under subsection (1) to be laid, as soon as may be after it is received, before the Legislature of the State.

Explanation.—For the purposes of this section, "Government" or "State Government", in relation to a Union territory having a Legislative Assembly, means the Administrator of the Union territory.'.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16412/Leg. Pbn. 2/84/Law. *Dated, Trivandrum, 16th October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II-Section 1, dated the 16th March 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 16th March, 1984.

By order of the Governor,
K. Sreedharan,
Law Secretary.

THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY ACT, 1984

(Central Act 3 of 1984)

An

ACT

to provide for prevention of damage to public property and for matters connected therewith

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Prevention of Damage to Public Property Act, 1984.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 28th day of January, 1984.

2. *Definitions*—In this Act, unless the context otherwise requires,—

(a) "mischief" shall have the same meaning as in section 425 of the Indian Penal Code (45 of 1860);

(b) "public property" means any property, whether immovable or movable (including any machinery) which is owned by, or in the possession of, or under the control of—

(i) the Central Government; or
(ii) any State Government; or
(iii) any local authority; or
(iv) any corporation established by, or under, a Central, Provincial or State Act; or
(v) any company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or
(vi) any institution, concern or undertaking which the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government shall not specify any institution, concern or undertaking under this sub-clause unless such institution, concern or undertaking is financed wholly or substantially by funds provided directly or indirectly by the Central Government or by one or more State Governments, or partly by the Central Government and partly by one or more State Governments.

3. *Mischief causing damage to public property.*—(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in subsection (2), shall be punished with imprisonment for a term which may extend to five years and with fine.

(2) Whoever commits mischief by doing any act in respect of any public property being—

(a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy;
(b) any oil installations;
(c) any sewage works;
(d) any mine or factory;
(e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith,

shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine:

Provided that the court may, for reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six months.

4. *Mischief causing damage to public property by fire or explosive substance.*—Whoever commits an offence under sub-section (1) or sub-section (2) of section 3 by fire or explosive substance shall be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to ten years and with fine:

Provided that the court may, for special reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than one year.

5. *Special provisions regarding bail.*—No person accused or convicted of an offence punishable under section 3 or section 4 shall, if in custody, be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such release.

6. *Saving.*—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force, and nothing contained in this Act shall exempt any person from any proceeding (whether by way of investigation or otherwise) which might, apart from this Act, be instituted or taken against him.

7. *Repeal and saving.*—(1) The Prevention of Damage to Public Property Ordinance, 1984 (5 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16416/Leg. Pbn.2/84/Law. *Dated, Trivandrum, 19th October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 11th May, 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 11th May 1984.

By order of the Governor,
K. Sreedharan,
Law Secretary.

THE OILFIELDS (REGULATION AND DEVELOPMENT) AMENDMENT ACT, 1984

(Central Act 20 of 1984)

An
Act

further to amend the Oilfileds (Regulation and Development) Act, 1948.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Oilfields (Regulation and Development) Amendment Act, 1984.

2. *Amendment of section* 6A.—In section 6A of the Oilfields (Regulation and Development) Act, 1948 (53 of 1948) (hereinafter referred to as the principal Act), in clause (b) of the proviso to sub-section (4), for the words "four years", the words "three years" shall be substituted.

3. *Substitution of new section for section* 10.—For section 10 of the principal Act, the following section shall be substituted, namely:—

"10. *Laying of rules and notifications.*—Every rule made under this Act and every notification issued under sub-section (4) of section 6A shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for

a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.".

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16946/Leg. Pbn. 2/84/Law. *Dated; Trivandrum, 22nd October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II-Section 1, dated the 18th May, 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 18th May 1984.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE PAYMENT OF GRATUITY (SECOND AMENDMENT) ACT, 1984

(Central Act 26 of 1984)

AN

ACT

further to amend the Payment of Gratuity Act, 1972.

BE it enacted by parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Payment of Gratuity (Second Amendment) Act, 1984.

2. *Amendment of section* 1.—In section 1 of the Payment of Gratuity Act, 1972 (39 of 1972), (hereinafter referred to as the principal Act), after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.".

3. *Amendment of section* 2.—In section 2 of the principal Act, for clause (c) and the *Explanations* thereto, the following clause shall be substituted, namely:—

'(c) "continuous service" means continuous service as defined in section 2A;'.

4. *Insertion of new section* 2A.—In the principal Act, after section 2, the following section shall be inserted, namely:—

"2A. *Continuous service.*—For the purposes of this Act,—

(1) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order imposing a punishment or penalty or treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act ;

(2) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer—

(a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week ; and

(ii) two hundred and forty days, in any other case ;

(b) for the said period of six months, if the emyloyee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of an employee employed below the ground in a mine or in an estalishment which works for less than six days in a week ; and

(ii) one hundred and twenty days, in any other case ;

(3) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent of the number of days on which the establishment was in operation during such period.".

5. *Amendment of section* 5.—Section 5 of the principal Act shall be renumbered as sub-section (1) of that section and, after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The appropriate Government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate Government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.".

6. *Validation.*—The amendments made in the principal Act by section 3 and section 4 shall be deemed to have been made with effect from the 11th day of February, 1981 and accordingly any action or thing taken or done or purporting to have been taken or done under the principal Act on or after the said date and before the commencement of this Act, shall, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the said amendments had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person, before the commencement of this Act, shall be punishable as an offence which would not have been so punishable if this Act had not come into force.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16945/Leg. Pbn. 2/84/Law. *Dated, Trivandrum, 26th October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 18th May 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 18th May, 1984.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE UNION DUTIES OF EXCISE (DISTRIBUTION) AMENDMENT ACT

(Central Act 27 of 1984)

AN

ACT

to amend the Union Duties of Excise (Distribution) Act, 1979.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Union Duties of Excise (Distribution) Amendment Act, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. *Amendment of long title of Act* 24 *of* 1979.—In the Union Duties of Excise (Distribution) Act, 1979 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "report dated the 28th day of October, 1978", the words, figures and letters "interim report dated the 14th day of November, 1983" shall be substituted.

3. *Substitution of new section for section* 3.—For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. *Payment to States of sums equivalent to a part of the net proceeds of Union duties of excise and provisional distribution of the sums among them.*—During the financial year commencing on the 1st day of April, 1984, there shall be paid, out of the Consolidated Fund of India, to the States sums equivalent to the distributable Union duties of excise levied and collected in that year and those sums shall be distributed, provisionally to each of the States specified in column (1) of the Table below in such percentage as is set out against it in column (2):—

TABLE

State	Percentage
(1)	(2)
Andhra Pradesh	7.691
Assam	2.793
Bihar	13.021
Gujarat	4.101
Haryana	1.177
Himachal Pradesh	0.521
Jammu and Kashmir	0.839
Karnataka	4.876
Kerala	4.035
Madhya Pradesh	8.725
Maharashtra	6.632
Manipur	0.218
Meghalaya	0.200
Nagaland	0.097
Orissa	4.682
Punjab	1.226
Rajasthan	4.813
Sikkim	0.028
Tamil Nadu	7.637
Tripura	0.373
Uttar Pradesh	18.290
West Bengal	8.025".

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16943/Leg. Pbn. 2/84/Law. *Dated, Trivandrum, 25th October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 18th May, 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 18th May 1984.

By order of the Governor,
K. Sreedharan,
Law Secretary.

THE UNION DUTIES OF EXCISE (ELECTRICITY) DISTRIBUTION (AMENDMENT) ACT, 1984

(Central Act 28 of 1984)

An

ACT

to amend the Union Duties of Excise/Electricity/Distribution Act, 1980.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Union Duties of Excise (Electricity) Distribution (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. *Amendment of long title of Act* 14 *of* 1980.—In the Union Duties of Excise (Electricity) Distribution Act, 1980 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "report dated the 28th day of October, 1978", the words figures and letters "interim report dated the 14th day of November, 1983" shall be substituted.

3. *Substitution of new section for section* 3.—For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. *Payment to States of sums equivalent to the net proceeds of union duties of excise on electricity and provisional distribution of the sums among them.*—During the financial year commencing on the 1st day of April, 1984, there shall be paid, out of the Consolidated Fund of India, to the States sums equivalent to the distributable Union duties of excise on electricity levied and collected in that year and those sums shall be distributed, provisionally to each of the States specified in column (1) of the Table below in such percentage as is set out against it in column (2).

TABLE

State	Percentage
(1)	(2)
Andhra Pradesh	8.51
Assam	1.09
Bihar	5.74
Gujarat	9.66
Haryana	2.49
Himachal Pradesh	0.55
Jammu and Kashmir	1.15
Karnataka	7.05
Kerala	4.22
Madhya Pradesh	7.09
Maharashtra	19.38
Manipur	0.04
Meghalaya	0.11
Nagaland	0.04
Orissa	3.02
Punjab	3.54
Rajasthan	2.92
Sikkim	0.01
Tamil Nadu	7.71
Tripura	0.08
Uttar Pradesh	8.17
West Bengal	7.43.".

Kerala Gazette No. 49 dated 11th December 1984.
PART I

Section I

GONERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16424/Leg.Pbn. 2/84/Law. *Dated, Trivandrum, 17th October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 24th May 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 23rd May, 1984.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE ESTATE DUTY (DISTRIBUTION) AMENDMENT ACT, 1984

(Central Act 32 of 1984)

AN
ACT

further to amend the Estate Duty (Distribution) Act, 1962

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Estate Duty (Distribution) Amendment Act, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1984.

2. *Amendment of long title of Act 9 of* 1962.—In the long title of the Estate Duty (Distribution) Act, 1962 (hereinafter referred to as the principal Act), for the words, figures and letters "report dated the 28th day of October, 1978", the words, figures and letters "interim report dated the 14th day of November, 1983" shall be substituted.

3. *Amendment of section* 3.—In section 3 of the principal Act, in sub-section (1),—

(a) for the words, figures and letters "each of the financial years commencing on and after the 1st day of April, 1979", the words, figures and letters "the financial year commencing on the 1st day of April, 1984" shall be substituted ;

(b) for the words "be distributed", the words "be distributed, provisionally," shall be substituted.



GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16425/Leg. Pbn. 2/84/Law. *Dated, Trivandrum, 16th October* 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 24th May, 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 23rd May, 1984.

By order of the Governor,
K. Sreedharan,
Law Secretary.

THE MOGUL LINE LIMITED (ACQUISITION OF SHARES) ACT, 1984

(Central Act 33 of 1984)

AN

ACT

to provide, in the public interest, for the acquisition of certain shares of the Mogul Line Limited in order to serve better the shipping needs of the nation and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Mogul Line Limited (Acquisition of Shares) Act, 1984.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date on which this Act comes into force;

(b) "Company" means the Mogul Line Limited, being a company within the meaning of the Companies Act, 1956 (1 of 1956), and having its registered office at 16, N.G.N. Vaidya Marg (Bank Street), Bombay;

(c) "share" means a share in the capital of the Company, and includes a share pledged by any shareholder with any bank or other creditor;

(d) "shareholder" means a person who, immediately before the appointed day, was registered by the Company as the holder of any share and includes his legal representative ;

(e) words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), have the meanings respectively assigned to them in that Act.

3. *Transfer and vesting of certain shares of the Company in the Central Government.*—(1) On the appointed day, all the shares of the Company which are not held by the Central Government shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

(2) The Central Government shall be deemed, on and from the appointed day, to have been registered in the Register of members of the Company as the holder of each share which stands transferred to, and vested in, it by virtue of the provisions of subsection (1).

(3) All the shares which have vested in the Central Government under subsection (1) shall, by force of such vesting, be freed and discharged of all trusts, liabilities, obligations, mortgages, charges, liens and other encumbrances affecting them, and any attachment, injunction or any decree or order of the court, tribunal or other authority restricting the use of such shares in any manner, shall be deemed to have been withdrawn.

(4) For the removal of doubts, it is hereby declared that the provisions of subsections (1) and (2) shall not be deemed to affect—

(a) any right of the Company subsisting, immediately before the appointed day, against any shareholder to recover from such shareholder any sum of money on the ground that the shareholder has not paid or credited to the Company the whole or any part of the value of the shares held by him, or on any other ground whatsoever ; or

(b) any right of the shareholder subsisting immediately, before the appointed day, against the Company to receive any dividend or other payment due from the Company.

4. *Management of the Company.*—For the purposes of enabling the Company to function as a Government company in which the entire share capital is held by the Central Government, the Central Government may, by notification in the Official Gazette, make such provisions (including amendments in the memorandum and articles of association of the Company), as it may consider necessary and the provisions so made shall have effect notwithstanding anything contained in the Companies Act, 1956 (1 of 1956).

5. *Payment of amounts.*—(1) Every shareholder whose, shares in the capital of the Company are transferred to, and vested in, the Central Government under section 3 shall, for such transfer and vesting, be given by that Government, in cash and in the manner specified in section 6, an amount calculated at the rate of rupees ten per share.

(2) The amount payable to a shareholder under subsection (1) shall carry simple interest at the rate of five and a half per cent per annum for the period commensing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the shareholder or where such amount has been deposited under subsection (4) of section 6, on the date on which it is so deposited.

6. *Manner of payment of amounts.*—(1) The amounts payable to a shareholder in accordance with the provisions of section 5 shall be given to him in cash to be paid by cheque drawn on the Reserve Bank of India.

(2) A shareholder may make an application, in writing, to the Central Government for the payment of the amounts payable to him.

(3) On the receipt of an application under subsection (2), the Central Government shall, after making such investigation as may, in its opinion, be necessary, make the payment.

(4) If any dispute arises as to the person entitled to receive the amounts payable in respect of any share, the Central Government shall deposit the amount in the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated for being paid to the person or persons entitled to be paid.

7. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

8. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be ot no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 16418/Leg. Pbn. 2/84/Law. *Dated, Trivandrum, 11th October*, 1984.

The following Act of Parliament, published in a Gazette of India Extraordinary, Part II—Section 1, dated the 27th May 1984 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 26th May, 1984.

By order of the Governor,
K. SREEDHARAN,
Law Secretary.

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 1984

(Central Act 34 of 1984)

AN

ACT

further to amend the Essential Commodities Act, 1955

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Essential Commodities (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new section* 7A.—After section 7 of the Essential Commodities Act, 1955, (10 of 1955) the following section shall be inserted namely:—

'7A. *Power of Central Government to recover certain amounts as arrears of land revenue.*—(1) Where any person, liable to—

(*a*) pay any amount in pursuance of any order made under section 3, or

(b) deposit any amount to the credit of any Account or Fund constituted by or in pursuance of any order made under that section,

makes any default in paying or depositing the whole or any part of such amount, the amount in respect of which such default has been made shall [whether such order was made before or after the commencement of the Essential Commodities (Amendment) Act, 1984, and whether the liability of such person to pay or deposit such amount arose before or after such commencement] be recoverable by Government together with simple interest due thereon computed at the rate of six per cent per annum from the date of such default to the date of recovery of such amount, as an arrear of land revenue.

(2) The amount recovered under sub-section (1) shall be dealt with in accordance with the order under which the liability to pay or deposit such amount arose.

(3) Notwithstanding anything contained in any other law for the time being in force or any contract to the contrary, no court, tribunal or other authority shall grant any injunction or make any order prohibiting or restraining any Government from recovering any amount as an arrear of land revenue in pursuance of the provisions of sub-section (1).

(4) If any order, in pursuance of which any amount has been recovered by Government as an arrear of land revenue under sub-section (1) is declared by a competent court, after giving to the Government a reasonable opportunity of being heard, to be invalid, the Government shall refund the amount so recovered by it to the person from whom it was recovered, together with simple interest due thereon, computed at the rate of six per cent per annum, from the date of recovery of such amount to the date on which such refund is made.

Explanation.—For the purposes of this section, "Government" means the Government by which the concerned order under section 3 was made or where such order was made by an officer or authority subordinate to any Government, that Government.'.

GOVERNMENT OF KERALA

Home Department

NOTIFICATION

G.O. Ms. 150/84/Home. *Dated, Trivandrum, 5th November* 1984.

S. R. O. No. 1511/84.—In pursuance of the provisions of Section 6 of the Delhi Special Police Establishment Act 1946 (Central Act 25 of 1946), the Government of Kerala hereby accord consent to the extension of powers and jurisdiction of the members of Delhi Special Police Establishment in the whole of the State of Kerala for investigation of offences punishable under sections 4 and 5 of the Anti Hijacking Act, 1982 (Central Act 65 of 1982), and attempts abetments and conspiracies in relation to, or in connection with the said offences and any other offence committed in the course of the same transaction arising out of the same facts.

By order of the Governor,
P. V. RADHALAKSHMI,
Addl. Secretary to Government.

Explanatory Note

(This is not the part of the notification, but only intended to indicate achieve its purport).

Government of India proposes to extend the powers and jurisdiction of the SPE (CBI) in this State as laid down on section 5 (1) of the DSPE Act. But as per Section 6 of the DSPE Act 1946 Government of India can exercise such powers and jurisdication in a State only with the consent of that State. This notification is intended for the above purpose.

GOVERNMENT OF KERALA

Home 'C' Department

NOTIFICATION

G O MS. No 161/84/Home *Dated, Trivandrum, 26th November 1984*

S.R.O. No 1512/84—In exercise of the powers conferred by subsection (1) of section 25 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government of Kerala hereby appoint Shri M.G. Shanmughan, Erikkattu House, Poochackal P.O., Shertallai, Alleppey District, as Assistant Public Prosecutor Grade II in Alleppey District.

By order of the Governor,
N. KALEESWARAN,
Commissioner & Secretary to Government.

Explanatory Note

(This is not part of the notification but intended to achieve its general purport).

It has become necessary to fill the existing vacancy of Assistant Public Prosecutor Grade II in Alleppey District. The notification is intended to achieve the above object.

GOVERNMENT OF KERALA

Home (C) Department

NOTIFICATION

G. O. (Rt.) No. 3210/84/Home. *Dated, Trivandrum, 28th November* 1984.

S. R. O. No. 1513/84.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government of Kerala hereby rescind the Notification issued under G.O. Rt. No. 748/82/Home dated the 17th March, 1982, published as S.R.O. No. 475/82 in the Kerala Gazette No. 15 dated the 13th April, 1982 appointing Sri K. Kunhirama Menon as Special Public Prosecutor for the conduct of prosecution in Crime No. 10/82 of Vengara Police Station.

By order of the Governor,

N. KALEESWARAN,

Commissioner & Secretary to Government.

Explanatory Note

(This is not part of the notification, but is intended to indicate its general purport.)

The Director General of Police has requested to cancel the Orders issued appointing Sri Kunhirama Menon as Special Public Prosecutor in Crime No. 10/82 of Vengara Police Station. Government have accepted the recommendation. The notification is intended to achieve the above object.

Kerala Gazette No. 49 dated 11th December 1984
PART I

Section iv

GOVERNMENT OF KERALA

Home (C) Department

NOTIFICATION

G. O. Rt. No. 3214/84/Home. *Dated, Trivandrum, 28th November*, 1984.

S. R. O. No. 1514/84.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Government of Kerala hereby appoint Sri Mathew Idiculla, Advocate, Quilon as Special Public Prosecutor for the conduct of prosecution in Crime No. 214/83 of Chavara Police Station.

By order of the Governor,

N. Kaleeswaran,

Commissioner and Secretary to Government.

Explanatory Note

(This is not part of the notification but is intended to indicate its general purport.)

Government consider it necessary to appoint Sri Mathew Idiculla, Advocate, Quilon, who has the requisite qualification as Special Public Prosecutor for the conduct of prosecution in Crime No. 214/83 of Chavara Police Station. The notification is intended to achieve this object.

GOVERNMENT OF KERALA

Higher Education (E) Department

NOTIFICATION

G.O. Ms. No. 316/84/H.Edn. *Dated, Trivandrum, 20th November* 1984.

S. R. O. No. 1515/84.—In exercise of the powers conferred by sub-section (1) of section 4 of the Charitable Endowments Act, 1890 (Central Act 6 of 1890), the Government of Kerala hereby order that the property specified in column (2) of the Schedule appended herewith belonging to the Endowment mentioned in column (1) thereof, shall be vested with the Treasurer of Charitable Endowments, Kerala and under subsections (1) and (3) of section 5 of the said Act, the Government of Kerala hereby settle the following Scheme for administration of the said property the same having been previously published under rule 3 of the Charitable Endowments (Kerala) Rules, 1966, and appoint the date of publication of this notification to be the date on which the said scheme shall come into operation, namely ;—

SCHEME

1. This Endowment may be called "Shri A. T. Thomas Memorial Endowment Fund".

2. The corpus of the Endowment shall consists of Rs. 10,000 (Rupees ten thousand only) and shall be vested with the Treasurer of Charitable Endowments, Kerala.

3. The corpus of the Endowment shall be invested in any long term securities of the Government of India or the Government of Kerala or in any of the securities approved by the Government of Kerala.

4. The Principal, Maharaja's Technological Institute, Trichur shall be the Administrator of the Fund.

5. The annual interest accruing on the fund shall be utilised during the succeeding year for awarding four prizes in cash to:—

(i) Three students of Maharaja's Technological Institute, Trichur who secure the highest number of marks in the 1st, 2nd and 3rd year Diploma Examinations in Civil Branch conducted by the Board of Technical Education.

(ii) One student of the final year Diploma class of Maharaja's Technological Institute, Trichur, Other than Civil Engineering Branch, who secures the highest number of marks in the final year Diploma Examination of the Board of Technical Examination.

6. The cash award shall be given on the occasion of the College day Celebration or any other occasion in the academic year as decided by the Administrator and thereafter the fact of such award with relevant particulars thereof shall be published in the notice Board of the College.

7. If, in any year, more than one student is found eligible for the award by securing the same number of marks in the 1st, 2nd and 3rd year class of Civil Engineering Diploma Examination as the case may be, then the amount shall be divided equally among them.

8. If the scheme of Examination changes and if the Board does not hold Examination during the first and second year, the marks secured by the student in the Examination conducted by the Institute shall be consolidated for giving the award.

9. Requisition for payment of annual interest shall be sent by the Administrator to the Treasurer of Charitable Endowments, two months prior to the date fixed for the award and the Treasurer of Charitable Endowments, shall thereof arrange to place the annual interest at the disposal of the Administrator.

10. If, in any year, the interest is not utilised as provided in clause 5 or if the prize is not awarded owing to the non-availability of a suitable candidate or for any other reason or if any balance is left after awarding the prize, such amount shall be added on to the corpus of the fund by the Treasurer of Charitable Endowment unless its payment is allowed by the Treasurer in exceptional cases on the specific recommendation of the Controlling Authority specified in clause 11.

11. If any doubt or dispute arises regarding the meaning or interpretation of the provision of the scheme, it shall be referred to the Director of Technical Education whose decision thereon shall be final.

SCHEDULE

Name of Endowment	*Details of property*
(1)	(2)
Shri A. T. Thomas Endowment fund.	Rs. 10,000 (Rupees ten thousand only)

By order of the Governor,

P. K. GANGADHARAN,

Joint Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Principal, Maharaja's Technological Institute, Trichur wishes to institute an endowment in the name of late Shri A. T. Thomas, Former Lecturer of Maharaja's Technological Institute, Trichur. A preliminary notification regarding this has been published in the Kerala Gazette dated the 18th September, 1984. Now the Government have accepted the endowment for institution and hence the notification.

Kerala Gazette No. 49 dated 11th December 1984.
PART I **Section iv**



GOVERNMENT OF KERALA

Abstract

PUBLIC SERVICES—THE KERALA ENGINEERING SUBORDINATE SERVICE SPECIAL RULES—AMENDMENT—ISSUED.

PUBLIC WORKS, FISHERIES & PORTS (B) DEPARTMENT

G.O. (P) 119/84/PWF & P.

Dated Trivandrum 2nd November 1984.

NOTIFICATION

S.R.O. No. 1516/84—In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968) read with section 3 thereof, the Government of Kerala hereby make the following amendment to the Special Rules for the Kerala Engineering Subordinate Service issued in G. O. (MS) No. 1390/Public (Services D) Department dated the 20th November, 1958, and published in Part I of the Kerala Gazette No. 47 dated the 2nd December 1958, as subsequently amended, namely:—

AMENDMENT

In the said rules, after rule 3, the following rule shall be inserted, namely:—

"3A. *Retrospective effect to certain amendments*.—Rules 1 and 2 as substituted, and sub-rule (b) of rule 3 as amended by notification G.O. (P) No. 276/72/PW dated the 16th November, 1972, published as S.R.O. No. 592/72 in Part I of the Kerala Gazette No. 46 dated the 21st November, 1972 shall be deemed to have come into force with effect from the 1st day of April, 1968".

By order of the Governor,

R. C. CHOUDHURY,

Secretary to Government.

G. 1873 [P.T.O.]

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport.)

All the full time Work Establishment Employees under the P.W.D. were absorbed into regular establishment with effect from 1-4-1968. As per G.O. (P) No. 276/72/PW dated 16-11-1972 the category of Work Superintendent was included in the Special Rules for the Kerala Engineering Subordinate Service. Government now propose to give retrospective effect to the rules issued in the above G.O. with effect from 1-4-1968.

This notification is intended to achieve the above object.

To

The Chief Engineer (General).
The Secretary, Kerala Public Service Commission (with G. L.)
The Secretary, Legislature Secretariat (with G.L.)
The General Administration (SC) Department-vide item No. 2430 dated 25-10-1984.
The Public Works, Fisheries & Ports (J) Department.

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Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Tuesday, 11th December 1984 / 20th Agrahayana 1906 [No. 1072

GOVERNMENT OF KERALA

General Administration (Miscellaneous) Department

NOTIFICATION

No. 142358/M1/84/GAD. *Dated, Trivandrum, 5th December, 1984.*

Under the 'Explanation' to section 25 of the Negotiable Instruments Act, 1881 (Central Act 26 of 1881) read with the Notification of Government of India, Ministry of Home Affairs No. 20/25/56-Pub. 1 dated 8th June, 1957, the Government of Kerala are pleased to declare the 24th December, 1984 (Monday) as a Public Holiday in connection with the General Election to the Lok Sabha.

By order of the Governor,

P. VISWANATHAN NAIR,

Additional Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/4983/MC.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Tuesday, 11th December 1984 / 20th Agrahayana 1906 [No. 1071

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 11555-LA. 1A/84. *Dated, Trivandrum, 11th December, 1984.*

Shri M. Kunhiraman Nambiar, elected member of the Kerala Legislative Assembly from the 'Udma' Assembly Constituency has resigned his seat in the Kerala Legislative Assembly with effect from December 8, 1984.

കേരള നിയമസഭയിലേക്ക് 'ഉദുമ' അസംബ്ലി നിയോജകമണ്ഡലത്തിൽ നിന്നും തെരഞ്ഞെടുക്കപ്പെട്ട അംഗം ആയ ശ്രീ. എം. കുഞ്ഞിരാമൻ നമ്പ്യാർ 1984 ഡിസംബർ 8–ാം തീയതി മുതൽ കേരള നിയമസഭയിലെ തന്റെ സ്ഥാനം രാജിവച്ചിരിക്കുന്നു.

K. P. PADMANABHAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/4982/MC.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Tuesday, 11th December 1984 / 20th Agrahayana 1906 [No. 1073

GOVERNMENT OF KERALA

Agriculture (NCA) Department

NOTIFICATION

G. O. (P) No. 327/84/AD. *Dated, Trivandrum, 12th November,* 1984.

The following Draft Rules which the Government of Kerala propose to make in exercise of the powers conferred by clause (xiii-b) of sub-section (2) of Section 18 Madras Commercial Crops Markets Act, 1933 (Madras Act XX of 1933), read with sub-section (1) of section 9 thereof, is hereby published for general information as required by clause (a) of sub-section 4 of section 18 of the said Act.

Notice is hereby given that the draft will be taken up for consideration on or after the expiry of a period of 30 days from the date of publication of this notification in the Gazette and that objections or suggestions, if any, with respect to the said draft that may be received from any person on or before the date specified above will be considered by the Government. Objections and suggestions shall be addressed to the Secretary to Government, Agriculture (NCA) Department, Secretariat, Trivandrum.

33/4984/MC.

DRAFT RULES

1. *Short title and commencement.*—(1) These rules may be called the Madras Commercial Crops Market Committees Pensionable Employees ProvidentFund Rules, 1984.

(2) They shall come into force at once.

2. *Definitions.*—(1) In these rules unless the context otherwise requires,—

(i) "Chairman" means the Chairman of the Market Committee;

(ii) "Market Committee" means a Committee established under sub-section (1) of section 4 A of the Madras Commercial Crops Market Act, 1933 (Madras Act XX of 1933);

(iii) "Emoluments" means except where otherwise expressly provided, pay, leave salary or subsistence allowance as defined in the Kerala Service Rules or other Service Rules applicable to the Market Committee employees concerned and includes any remuneration of the nature of pay received in respect of foreign service;

(iv) "Family" means—(a) in the case of a male subscriber, wife or wives and children of the subscriber and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber proves that his wife has been judicially separated from him or has ceased under the customery law of the community to which she belongs, to be entitled to maintenance, she shall thenceforth be deemed to be no longer a member of the subscriber's family in matters to which these rules relate, unless the subscriber subsequently indicates by express notice in writing to the Chairman that she shall continue to be so regarded; and

(b) in the case of a female subscriber, the husband and children of the subscriber, and the widow or widows and children of a deceased son of the subscriber:

Provided that if a subscriber by notice in writing to the Chairman expresses her desire to exclude her husband from her family, the husband shall thenceforth be deemed to be no longer a member of the subscriber's family in matters, to which these rules relate, unless the subscriber subsequently cancels formally in writing her notice excluding him.

Notes:—(i) 'Children' means legitimate children:

(ii) An adopted child shall be considered to be a child of the subscriber, if the Chairman is satisfied that under the personal law of the subscriber adoption is legally recognised as conferring the status of a natural child;

(iii) A child of one person given in adoption to another shall not be considered to be a child of the former if the Chairman is satisfied that such adoption is legally recognised under the personal law of the person concerned;

(iv) "Forms" means a Form appended to these rules;

(v) "Fund or Provident fund" means the Madras Commercial Crops Market Committee Pensional Employees Provident Fund established by the Market Committee under these rules;

(vi) "Pensionable employees" means an employee of the Market Committee borne on its regular establishment and who is eligible under the rules in force for pension on retirement from service on superannuation;

(vii) "Secretary" means the Secretary of the Market Committee;

(viii) "Subscription" means the amount subscribed by an employee to the Provident Fund under these rules;

(ix) "Year" means a calendar year;

(x) Words importing the masculine gender shall be taken to include females, if circumstances so require.

(2) Words and expressions used and not defined in these rules, but is defined in the Kerala Service Rules or in the Provident Funds Act, 1925 (Central Act 19 of 1925), shall have the same meaning assigned to them in the Kerala Service Rules or the Provident Fund Act, 1925 (Central Act 19 of 1925) as the case may be.

3. *Constitution of the Provident Fund.*—(1) The Market Committee shall constitute and maintain a Provident Fund for the benefit of its pensionable employees.

(2) The fund shall be administered by the Market Committee and shall be maintained in rupees.

(3) The fund shall be invested in Treasury Savings Bank.

(4) Such portion of the Fund which is not required for immediate disbursement under these rules shall be invested in fixed deposits under Treasury Savings Scheme and/or in the form of Kerala bonds as may be decided by the Market Committee.

4. *Subscribers to the existing Contributory Provident Fund of the Market Committee to be absorbed in the fund to be constituted, if they are admitted to Pension Scheme.*—Every subscriber to an existing Contributory Provident Fund of the Market Committee who is admitted to the Pension Scheme shall be absorbed in the

fund to be constituted by the Market Committee under these rules, if and when he is admitted to the pension scheme. When a subscriber is so absorbed, the balance amount standing to the credit of the subscriber in the Contributory Provident Fund towards subscriptions and interest thereon shall be transferred to his account to be opened in his name under the fund to be established under these rules.

5. *Admission to the Fund.*—(1) Subject to the provisions of rule 4, the following classes of employees shall be admitted to the fund:—

(a) Every pensionable employee who has put in a continuous service of more than one year in a temporary or officiating capacity:

Provided that employees working on a temporary or officiating capacity, other than re-employed pensioners and any person appointed on a provisional basis, who have not completed one year's continuous service may also be admitted to the fund if they apply for it in writing;

(b) Every probationer in any post who will be made a full member of the service on due completion of the period of probation.

(2) Application for admission to the fund shall be in Form No. I.

6. *Nominations.*—(1) Every subscriber shall, at the time of his joining the fund, send to the Secretary along with his application a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the fund, in the event of his death before the amount has become payable or having become payable, has not been paid:

Provided that if, at the time of making the nomination, the subscriber has a family, the nomination shall not be in favour of any person or persons other than the members of his family.

(2) If a subscriber nominates more than one person under sub-rule (1), he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the fund at any time.

(3) Every nomination shall be in such one of the Forms IA to ID as may be appropriate, in the circumstances of the case.

(4) If a subscriber who has made a nomination when he had no family, subsequently acquired a family, he shall formally get the nomination cancelled and make a fresh nomination in favour of his family.

(5) A subscriber may at any time cancel a nomination by sending notice in writing to the Secretary along with a fresh nomination made in accordance with the provisions of this rule.

(6) A subscriber may provide in a nomination—

(a) in respect of any specified nominee, that in the event of his pre-deceasing the subscriber, the right of conferred upon the nominee shall, pass to such other person as may be specified in the nomination;

(b) that the nomination shall become invalid in the event of the happening of a contingency specified therein.

(7) Immediately on the occurrence of any contingency by reason of which the nomination becomes inoperative, the subscriber shall send to the Secretary a notice in writing cancelling the nomination together with a fresh nomination made in accordance with the provisions of this rule.

(8) Every nomination made and every notice of cancellation given by a subscriber shall, to the extent that it is valid, take effect from the date on which it is received by the Secretary.

7. *Subscriber's Account.*—An account shall be prepared in Form No. 6 in the name of each subscriber and it shall show the amount of his subscriptions with interest thereon, as prescribed in rule 14, as well as advances and withdrawals from the fund.

8. *Conditions regarding subscriptions.*—A subscriber shall subscribe monthly to the fund except during period of suspension:

Provided that a subscriber may, at his option, not subscribe during leave which either does not carry any leave salary or carries leave salary equal to or less than half pay or half average pay:

Provided further that a subscriber, on reinstatement after suspension shall be allowed the option of paying, in a lump or in instalments, any sum not exceeding the maximum amount of arrear subscriptions permissible for period of suspension:

Provided also that a subscriber may, at any time, during the period of one year immediately preceding the date of his retirement, elect not to subscribe to the fund.

9. *Rate of subscription.*—(1) The amount of subscription shall be fixed by the subscriber himself, subject to the following conditions, namely:—

(a) it shall be expressed in whole rupee; and

(b) it may be any sum, not less than 6% of his emoluments per mensem.

Note:— If six per cent of emoluments represents a sum not expressible in whole rupees, the fraction of a rupee will be rounded to the nearest whole rupee , 50 paise counting as the next higher rupee. This amount shall be taken as the minimum limit of subscription.

(2) For the purposes of sub-rule (1), the emoluments of the subscriber shall be as follows:—

(a) In the case of a subscriber who was in service on the 31st December of the preceding year, the emoluments to which he was entitled on that date:

Provided that—

(i) if the subscriber was on leave on the said date and elected not to subscribe during such leave, or was under suspension on the said date, his emoluments shall be the emoluments to which he was entitled on the first day after his return to duty;

(ii) if the subscriber was on deputation on the said date or was on leave on the said date and continues to be on leave and has elected to subscribe during such leave, his emoluments shall be the emoluments to which he would have been entitled had he been on duty or had he not been on leave;

(b) In the case of a subscriber who was not in service on the 31st December of the preceding year, the emoluments to which he was entitled on the day he joins the fund.

(3) The subscriber shall intimate the fixation of the amount of his monthly subscription in each year to the Secretary in the following manner:—

(a) If he was on duty on the 31st December of the preceding year by the deduction, which he makes in this behalf from his pay bill for that month;

(b) If he was on leave on the 31st December of the preceding year, and elected not to subscribe during such leave, or was under suspension on that date, by the deduction which he makes in this behalf from his first pay bill after his return to duty;

(c) If during the year, he has entered service for the first time, or joins the Fund for the first time, by the deduction which he makes in this behalf, from his pay bill for the month during which he joins the fund;

(d) If he was on leave on the 31st December of the preceding year, and continues to be on leave and has elected to subscribe during such leave, by the deduction which he causes to be made in this behalf from his salary bill for that month;

(e) If he was on foreign service on the 31st December of the preceding year, by the amount credited by him into the Treasury on account of subscription for the month of January in the current year.

(4) The amount of subscription so fixed shall remain unchanged throughout the year, provided that the amount of subscription may he enhanced once at any time during the course of a year.

(5) The subscriber shall have the option to reduce the subscription during the course of an year in case of reduction in emoluments, provided the amount of subscription, after such reduction, does not fall below 6 per cent of his emoluments.

10. *Applicability of the rules to subscribers while on foreign service etc.*—When a subscriber is transferred to foreign service or sent on deputation to the services of another institution or transferred to another Market Committee he shall remain, subject to the rules of the Fund in the same manner as if he were not so transferred or sent on deputation.

11. *Realisation of subscription.*—(1) Subscriptions shall ordinarily be recovered by the Secretary by deduction of the amount from the pay bills of subscribers.

(2) When an officer is on foreign service or deputation, the officer under whom the incumbent is working shall recover the subscription from his pay.

12. *Recovery of arrears of subscription in certain cases.*—If an officer fails to subscribe with effect from the date on which he is required to subscribe to the fund, the total amount due to the fund on account of arrears of the subscription shall forthwith be paid by the subscriber to the fund or in default be ordered by the Chairman to be recovered by deductions from the emoluments of the subscriber in instalments or otherwise as may be directed by the Chairman:

Provided that the arrears so recovered shall not be in excess of the rate of subscription for the month in which recoveries are effected.

13. *Lodging of the Fund.*—The amount deducted from the pay bills of subscribers under sub-rule (1) of rule 11 as provident fund deductions and the subscriptions recovered under sub-rule (2) of rule 11 by the subscribers, shall be remitted to the Treasury Savings Bank Account and separate Cash book shall be maintained for the Fund in Form No. 10.

14. *Interest.*—(1) Subject to the provisions of sub-rule (5), interest at such rate as may be fixed by the Government from time to time subject to a minimum of four per cent shall be annually credited by the Market Committee to the account of each subscriber.

(2) Interest shall be credited with effect from the last day in each year the following manner, namely:—

(i) On the amount at the credit of a subscriber on the last day of the preceding year, less any sums withdrawn during the current year interest for twelve months;

(ii) On sums withdrawn during the current year interest from the beginning of the current year upto the last day of the month preceding the month of withdrawal;

(iii) On all sums credited to subscriber's account after the last day of the preceding year interest from the date of deposit upto the end of the current year;

(iv) The total amount of interest shall be rounded to the nearest whole rupee, fifty paise or more counting as the next higher rupee:

Provided that when the amount standing at the credit of a subscriber has become payable, interest shall thereupon be credited under this sub-rule in respect only of the period from the beginning of the current year or from the date of deposit, as the case may be, upto the date on which the amount standing to the credit of the subscriber became payable.

(3) In this rule, the date of deposit shall, in the case of a recovery from emoluments, be deemed to be the first day of the month in which it is recovered, and in the ease of an amount remitted under sub-rule (2) of rule 11 shall be deemed to be the first day of the month of remittance, if it is remitted before the fifth day of that month, but if it is remitted on or after the fifth day of that month, the first day of the next month.

(4) In addition to any amount to be paid under these rules on final withdrawal, interest thereon upto the end of the month preceding that in which the payment is made or upto the end of the sixth month after the month in which such amount became payable, whichever of these periods be less, shall be payable to the person to whom such amount is to be paid.

(5) Interest shall not be credited to the account of a subscriber if he informs the Market Committee that he does not wish to receive it; but if he subsequently asks for interest, it shall be credited with effect from the first day of the year in which he asks for it or if he had joined the fund during the year from the date of his joining the fund.

15. *Temporary advance from the fund.*—(1) A temporary advance may be granted by the Chairman to a subscriber from the amount standing to his credit subject to the following conditions, namely:—

(a) No advance shall be granted from the fund unless the Chairman is satisfied that the applicant's pecuniary circumstances justify it and that it will be expended on the following object or objects and not otherwise, provided that the condition of actual dependence shall not apply in the case of son or daughter of the subscriber—

(i) to meet the expenses in connection with prolonged illness or treatment of the applicant or any person actually dependent on him;

Note:—Expenses on account of "Confinement" shall be deemed as expense : in connection with prolonged treatment.

(ii) to meet the expenses in connection with marriages, funerals or ceremonies which by the religious or social customs of the subscriber, it is incumbent upon him to perform;

(iii) to pay for the cost of legal proceedings instituted by the subscriber for vindicating his position in regard to any allegation made against him in respect of any act done or purporting to be done by him in the discharge of his official duties;

(iv) to pay for the cost of subscriber's defence where he is prosecuted by the Market Committee in any court of law or when the subscriber engages a legal practitioner to defend himself in any enquiry in respect of alleged misconduct on his part;

Note:—1. The amount of temporary advances admissible for purposes of sub-clauses (iii) and (iv) of this sub-rule shall, notwithstanding any other provision to the contrary in these rules, not exceed three months pay and shall in no case exceed half the amount at the credit of the subscriber.

2. Temporary advance may be sanctioned to a subscriber who is under suspension provided he agrees in writing to the recovery of the advances being made in monthly instalments from the subsistence allowance sanctioned to him.

(v) to pay for the cost of general education of the subscriber or his children beyond the high school stage.

(b) An advance shall not, except for special reasons to be recorded in writing, be granted in excess of three months pay or half the amount at the credit of the subscriber in the fund whichever is less.

(2) The Chairman shall not under any circumstances grant—

(i) an advance under this rule during the month in which he retires or proceeds on leave preparatory to retirement from service on superannuation;

(ii) an advance unless a period of six months has elapsed after the grant of the previous advance;

(iii) an advance to a subscriber who has elected not to subscribe to the Fund as provided in the third proviso to rule 8 during the last one year of service immediately preceding the date of retirement of the subscriber.

(iv) an advance sanctioned from provident fund shall not result in a position whereby the amount of advance outstanding repayment, if any, plus advance proposed to be sanctioned is more than 300 per cent of the, balance amount at the subscribers credit after disbursing the advance to be sanctioned.

(3) The amount of advance shall be fixed with due regard to the amount outstanding at the credit of the subscriber in the Fund.

(4) The amount of advance should be expressed in whole rupees and the monthly instalments of repayments should also be in equal number of whole rupees.

(5) Application for temporary advance shall be in Form No. 3 and the order sanctioning the same shall be in Form No. 4.

16. *Recovery of Temporary advance.*—An advance shall be recovered from the subscriber in such number of equal monthly instalments as the Chairman may specify in the proceedings sanctioning the advance, but such number shall not be less than twelve, unless the subscriber so elects, or in any case not more than twenty four. In special cases, where the amount of advance exceeds 3 months pay of the subscriber, the Chairman may fix such number of instalments to be more than 24 but in no case more than thirty six. A subscriber may at his option, repay two or more instalments in a month.

17. *Mode of recovery.*—(1) Recovery shall be made in the manner prescribed in rule 11 for the realisation of subscription and shall commence with the issue of pay for the month following the month in which the advance was withdrawn. Recovery shall not be made, except with the subscriber's consent, while he is on leave which either does not carry any leave salary or carries leave salary equal to or less than half pay or half average pay, or in receipt of subsistance allowance, and may by postponed, on the subscriber's written request, by the sanctioning authority during the recovery of an advance of pay granted to the subscriber.

(2) When an advance is sanctioned under sub-rule (1) of rule 15, before repayment of last instalment of any previous advance is completed, the balance of any previous advance not recovered shall be added to the advance so sanctioned and the instalments for recovery shall be fixed with reference to the consolidated amount.

(3) If an advance has been granted to a subscriber and drawn by him and the advance is subsequently disallowed by the Chairman before repayment is completed the whole or balance of the amount withdrawn shall, with interest at the rate provided in rule 14, forthwith be repaid by the subscriber to the fund, or in default, be ordered by the Chairman to be recovered by deduction from the emoluments of the subscriber in a lump sum or in monthly instalments not exceeding twelve:

Provided that a subscriber whose deposits in the fund carry no interest shall not be required to pay any interest.

(4) Recoveries made under this rule shall be credited as they are made to the subscriber's account in the fund.

(5) Recoveries towards temporary advances previously granted and outstanding will not be made during the last one year of service immediately preceding the date of retirement in respect of a subscriber who has elected not to subscribe to the Fund as provided in the third proviso to rule 8.

18. *Non-refundable withdrawal.*—(1) The Chairman may at any time, on the application of subscriber who has completed twenty years of service (including broken periods of service if any) or who is within ten years of the date of

his attaining the age of superannuation, whichever is earlier, sanction a non-refundable withdrawal to a subscriber, on getting an application from him from the amount standing to his credit in the Fund, for one or more of the following purposes namely:—

(a) meeting the cost of higher education, including, where necessary, the travelling expenses, of any child of the subscriber and if he has no child; of any other relative actually dependent on him for education outside India, for academic, technical, professional or vocational course beyond the high school stage and for any medical, Engineering or other technical or specialised course in India beyond the high school stage, provided that the course of study is for not less than three years;

(b) meeting the expenditure in connection with the marriage of a son or daughter of the subscriber, and, if he has no daughter, or any other female relative dependent on him or repaying any outstanding amount on account of a loan expressly taken for this purpose;

(c) meeting the expenses in connection with the illness, including, where necessary, the travelling expenses, of the subscriber or any person actually dependent on him, or repaying any outstanding amount on account of a loan expressly taken for this purpose;

(d) purchasing a house site in the name of the subscriber and/or his wife or repaying any outstanding amount on account of a loan expressly taken for this purpose from Government or any other source before the date of application for the withdrawal:

Provided that the house to be constructed on the site so purchased is for the actual residence of the subscriber and/or his family:

(e) building a suitable house on a site owned or acquired by the subscriber and/or his wife with or without any assistance from the Provident Fund, or acquiring a site together with house in the name of the subscriber and/or his wife, or repaying any outstanding amount on account of a loan expressly taken by the subscriber and/or his wife from the Government or any other source for any of these purposes before the date of application for withdrawal:

Provided that the house is for the actual residence of the subscriber and/or his family; and

(f) making additions or alterations to or reconstructing or completing or repairing a house owned or acquired by the subscriber and/or his wife with or without any assistance from the Provident Fund, or repaying any outstanding amount on account of a loan expressly taken by the subscriber and/or his wife from the Government or any other source for any of the said purposes before the date of application for the withdrawal:

Provided that the house is for the actual residence of the subscriber and/or his family.

Note:—In respect of a female subscriber, the words 'his' and 'wife' occurring in clauses (d), (e) and (f) shall be read as 'her' and 'husband', respectively.

(2) The application for the withdrawal under sub-rule (1) shall be in Form No. 5. The subscribers shall be at liberty to send the application for non-refundable withdrawals direct to the Chairman.

19. *Conditions relating to sanctioning of non-refundable withdrawal.*—(1) A sanction for non refundable withdrawal from the fund shall, in all ordinary cases, be limited to one half of the amount outstanding at the credit of the subscriber or six months pay whichever is less.

(2) The Chairman may, however, sanction the withdrawal of an amount in excess of the limit prescribed in sub-rule (1), upto 3/4 of the amount outstanding at the credit of the subscriber having due regard to the following:—

(a) the object for which the withdrawal is being made;

(b) the status of the subscriber; and

(c) the amount at his credit in the fund:

Provided that—

(i) in the case of a subscriber who has availed himself of a loan from any Government source for house building purpose, a final withdrawal by him from the Provident Fund will be permitted provided that the amount withdrawn from the fund, together with the amount of loan taken from any Government source does not exceed Rs. 75,000 or five years pay of the subscriber whichever is less;

(ii) a subscriber who has been permitted a non-refundable withdrawal from the fund for the purpose of building or acquiring a suitable house for residence at any place will not be permitted to make another non-refundable withdrawal from the fund for any of these purposes or for the purchase of a house site at the same or another place. In the case of a subscriber who has been permitted a non-refundable withdrawal under clause (d) of sub-rule (1) of rule 18 to purchase a house site, he will not be permitted to make another withdrawal for acquiring another house site or a site together with a house site at the same or another place;

(iii) (a) a subscriber who has been permitted under clause (d) or (e) of sub-rule (1) of rule 18 to withdraw money from the amount standing to his credit in the fund shall not part with the possession of the house built or acquired or house site purchased with the money so with-drawn, whether by way of sale, mortgage, gift, exchange or otherwise without the previous permission of the Chairman:

Provided that such permission shall not be necessary for—

(1) the house or house site being leased for any term not exceeding 3 years; or

(2) it being mortgaged in favour of Housing Board, the Life Insurance Corporation or any other Corporation owned or controlled by the State Government which advance loans for the construction of a new house or for making additions or alterations to an existing house;

(b) the subscriber shall submit a declaration not later than the 31st day of December every year as to whether the house or the house-site as the case may be, continued to be in his possession or has been mortgaged, otherwise transferred or let out as aforesaid and shall if so required, produce before the sanctioning authority on or before the date specified, by that authority in that behalf, the original sale, mortgage or lease deed and also the documents on which his title to the property is leased;

(c) if, at any time before his retirement the subscriber parts with the possession of the house or house site without obtaining the previous sanction of the Chairman he shall forthwith repay the sum so withdrawn by him in a lump sum to the fund, and in default of such repayment the sanctioning authority shall, after giving the subscriber a reasonable opportunity for making a representation in the matter, cause the said sum to be recovered from the emoluments of the subscriber either in a lump or in such number of monthly instalments as may be determined by him.

(3) A subscriber who has been permitted to withdraw money from the fund under rule 18 shall satisfy the Chairman within a reasonable period as may be specified by him that the money has been utilised for the purpose for which it was withdrawn and if he fails to do so, the whole of the sum so withdrawn or so much thereof as has not been applied for the purposes for which it was withdrawn shall forthwith be repaid in one lump by the subscriber to the fund and in default of such payment, it shall be ordered by the Chairman to be recovered from the subscriber's emoluments either in lump or in such number of monthly instalments as may be determined by the Chairman. The Secretary shall carry out the directions issued by the Chairman in this regard.

20. *Conversion of an advance into a non-refundable withdrawal.*—A subscriber who has already drawn or may draw in future an advance under rule 15 for any of the purpose specified in clauses (a), (b) or (c) of rule 18 may, convert, at his discretion by written request addressed to the Chairman, the balance outstanding against it, into a non-refundable withdrawal, on his satisfying the conditions laid down in rule 18 and 19.

21. *Non refundable advance for remitting the premia to insurance policies.*—Notwithstanding anything contained in rules 18 and 19 non refundable

withdrawals may be allowed to the extent necessary for the purpose of continuing the payment of premia to the insurance policies, in respect of the subscribers who have assigned their policies in favour ol the Chairman, out of their provident fund accumulations. Such non refundable withdrawals shall be sanctioned by the Chairman for the required amounts for the remittance of premia on the basis of written requests made by the subscriber in this regard. A register of premia shall also be maintained in Form No. 12.

22. *Final withdrawal of accumulations in the fund.*—(1) When a subscriber quits the service, the amount standing to his credit in the fund shall become payable to him:

Provided that a subscriber who has been dismissed, removed or compulsorily retired from the service and is subsequently reinstated in the service shall, if required so to do by the Chairman, repay any amount paid to him from the fund in pursuance of this rule with interest thereon in the manner provided in the proviso to rule 23. The amount so repaid shall be credited to his account in the fund.

(2) A subscriber holding a post in an officiating or temporary capacity may either withdraw the amount on the termination of his employment, or leave it in the fund to be withdrawn at the time he finally quits service.

23. *Amounts standing to the credit of subscriber when payable.*—When a subscriber—

(a) has proceeded on leave preparatory to retirement; or

(b) while on leave, has been permitted to retire or has been declared by a competent medical authority to be unfit for further service; or

(c) has attained the age of superannuation but has not been permitted to retire from service owing to some reason or other, the amount standing to his credit in the fund shall, upon application made by him in that behalf to the Chairman become payable to the subscriber:

Provided that the subscriber, if he returns to duty, shall, if required so to do by the Chairman, repay to the fund, for credit to his account any amount paid to him for the fund in pursuance of this rule in cash or securities, or partly in cash or partly in securities, by instalments or otherwise, by recovery from his emoluments or otherwise as may be directed by the Chairman.

24. *Payment of amounts to the claimants of subscribers (See also Appendix I).*—On the death of a subscriber, before the amount standing to his credit has become payable, or where the amount has become payable before payment has been made:—

(1) When the subscriber leaves a family—

(a) if a nomination made by the subscriber in accordance with the

the amount standing to his credit in the fund or the part thereof to which the nomination relates shall become payable to his nominee or nominees in the proportion specified in the nomination;

(b) if no such nomination in favour of a member or members of the family of the subscriber subsists, or if such nomination relates only to a part of the amount standing to his credit in the fund, the whole amount or the part thereof to which the nomination does not relate as the case may be, shall, notwithstanding any nomination puporting to be in favour of any person or persons other than a member or members of his family, become payable to the members of his family in equal shares:

Provided that no share shall be payable to—

(i) sons who have attained legal majority;

(ii) sons of a deceased son who have attained legal majority;

(iii) married daughters whose husbands are alive;

(iv) married daughters of a deceased son, whose husbands are alive; if there is any member of the family other than those specified in clauses (i), (ii), (iii) and (iv):

Provided further that the widow or widows and the child or children of a deceased son shall receive between them in equal parts only the share which that son would have received if he had survived the subscriber and had been exempted from the provisions of clause (i) of the first proviso.

(2) When the subscriber leaves no family, if a nomination made by him in accordance with the provisions of rule 6 in favour of any, person or persons, subsists, the amount standing to his credit in the fund or part thereof to which the nomination relates, shall become payable to his nominee or nominees in the proportion specified in the nomination.

Note:—1. Payment of provident fund money due to a minor beneficiary of a deceased subscriber may be made to the guardian nominated by the subscriber. When the subscriber has not nominated a guardian, a guardian appointed by the court to receive payment on behalf of a minor beneficiary, should alone be recognised even where the amount involved does not exceed the limit of Rs. 5,000 specified in clause (b) of sub-section (1) of section 4 of the Provident Fund Act, 1925 (Central Act 19 of 1925). But if the party pleads inability to incur expenditure for obtaining the guardianship certificate from the court, the Chairman aftermaking such enquiries as he deems fit may make payment.

Note:—2. Payment may, however, be made without requiring the production of a guardianship certificate from the court if the share of a minor beneficiary does not exceed Rs. 500 and when the total amount

payable to all the minors in a particular case does not exceed Rs. 1,000. Orders of the Chairman should be obtained in favour of the following person in cases where the above limits are exceeded:—

(i) to the natural guardian of such minor beneficiary;

(ii) in the absence of a natural guardian to the person considered fit by the Chairman to receive payment on behalf of such minor beneficiary on such person executing a bond (see appendix II) signed by two sureties agreeing to indemnify, the Chairman against any subsequent claim which might arise:

Provided that the natural guardian may if it is considered expedient, also be required to execute a bond signed by two sureties agreeing to indemnify the Chairman against any subsequent claim which might arise before payment is made:

Provided further that, in cases governed by the Hindu Law, payment may be made without requiring the production of a guardianship certificate from the court to a Hindu widow of a deceased subscriber on behalf of her minor children other than step children irrespective of the limit of Rs. 500 specified above. She may if considered expedient, also be required to execute a bond signed by two sureties agreeing to indemnify the Chairman against any subsequent claim which might arise before the payment is made.

Note:—3 Payment of provident fund money due to a person nominated to receive the whole or part of the amount standing to the credit of a subscriber in the fund shall be made as follows in cases where the nominee dies after the subscriber but before receiving payment—

(a) When the amount due to the deceased nominee does not exceed Rs. 500 the Chairman may authorise payment of the amount to the claimant or claimants reported by the Collector of the District concerned to be entitled to receive payment, after making such enquiry into the right and title of the claimant or claimants as the Collector may deem sufficient, if the Collector considers that the production of a letter of administration or other legal authority may be dispensed with. The records of enquiry should contain statements signed at least by two trustworthy and persons having no interest in the claim:

Provided that, the District Collector may in such cases if he considers it expedient, require the party to execute before the payment is made, a bond (see appendix III) signed by two sureties agreeing to indemnify the Chairman against any subsequent claim which might arise.

(b) When the amount due to the deceased nominee exceeds Rs. 500 payment shall be made by the Chairman to the person who produces probate or letters of administration evidencing the grant to him of administration to the estate of the deceased nominee or a succession certificates entitling the holder thereof to receive payment of the amount:

Provided that, in cases where the Chairman is satisfied of the right and title of a person claiming payment as the heir of the deceased nominee and that undue delay and hardship would be caused by insisting on the production of letters of administration or other legal authority he may authorise payment of the amount to the claimant on his executing a bond (see appendix III) signed by two sureties agreeing to indemnify the Chairman against any subsequent claim which might arise.

Note:4 Notwithstanding the grant of a succession certificate in favour of any one or more of the claimants, the provident fund balance standing to the credit of a deceased subscriber shall be paid to the claimant or claimants in accordance with the provisions of the Provident Funds Act, 1925 (Central Act 19 of 1925), and the rules framed thereunder, as that Act and Rules supersede the personal law of succession, inheritance etc., in respect of provident fund money standing to the credit of a deceased subscriber.

25. *Payment of amounts in respect of a lunatic.*—(1) When the amount standing to the credit of a subscriber in the fund becomes payable, it shall be the duty of the Chairman to make payment as provided in section 4 of the Provident Funds Act, 1925 (Central Act 19 of 1925).

(2) If the person, to whom, under these rules, any amounts is to be paid is a lunatic for whose estate a manager has been appointed in this behalf under the Indian Lunacy Act, 1912 (Central Act 4 of 1912), the payment shall be made to such manager and not to the lunatic.

26. *Application for closure of Provident Fund Account.*—(1) A subscriber who proceeds on leave preparatory to retirement or who is due to retire shall send in *Form No.* 6 an application for closure of his Provident Fund accounts sufficiently early to the Chairman.

(2) In respect of deceased officers, the application in *Form No.* 7 for the closure of their provident fund account along with necessary documents (including heirship certificates, guardianship certificate, succession certificate etc., wherever necessary) shall be sent to the Chairman within a fortnight of the event.

27. *The closure of accounts.*—The Chairman on receipt of the application for closure of Provident fund accounts in the appropriate form, along with the necessary documents, shall close the account in accordance with these rules.

28. *Maintenance of accounts.*—(1) The accounts relating to the fund shall be maintained by the Secretary. Sums of which payment has not been made within one year after they become due for payment under these rules shall be transferred to 'Deposits' at the end of the year and treated under the ordinary rules relating to deposits.

(2) The transactions relating to the Provident Fund shall be audited by the local audit establishment of the Examiner of Local Fund Accounts Annually. The defects, lapses and omissions, if any, pointed out by the Examiner of Local Fund Accounts in his report shall be rectified by the Secretary within three months, from the date of receipt of the audit report and replies shall be furnished to him.

29. *Assigning of account number to each subscriber.*—When paying a subscription either by deduction from emoluments or in cash, subscriber shall quote the number of his account in this fund, which shall be communicated to him by the Secretary. Any change in the number shall similarly be communicated to the subscriber by the Secretary.

30. *Sending of statements of accounts to each subscriber.*—(1) As soon as possible after the closure of the year, but at any rate not later than 1st April of the succeeding year, the Secretary shall send to each subscriber a statement of his account in the fund showing the opening balance as on the 1st January of the year, the total amounts credited or debited during the year, the total amount of interest credited as on 31st December of the year and the closing balance on that date. The Secretary shall attach to the statement of accounts an enquiry as to whether the subscriber,—

(a) desires to make any alteration in any nomination made under rule 6 or under the corresponding rule hitherto in force;

(b) has acquired a family in cases where the subscriber has made no nomination in favour of a member of his family under the provisions of rule 6.

(2) Subscribers should satisfy themselves as to the correctness of the annual statement and errors, if any, should be brought to the notice of the Secretary within three months from the date of receipt of the statement.

(3) The Secretary shall, if required by a subscriber in writing inform the subscriber once in a year, the total amount standing to his credit in the fund at the end of the last month for which his account has been written up.

31. *Form of bill for payment of provident Fund money.*—The bill for withdrawing money from Provident fund accounts shall be *in Form No. 8.*

32. *Maintenance of Register.*—The Secretary shall maintain a register of subscribers in Form No. 9 a cash book in Form No. 10. a register of temporary advance in from No. 11; a register of premia in Form No. 12 and such other registers as may, be prescribed by the Examiner of Local Fund Accounts from time to time.

33. *Delegation of Powers.*—The Chairman shall be competent to delegate any of the powers conferred on him as per these rules to any of his subordinate officers not below the rank of Secretary for the expeditious disposal of the transactions relating to the Provident Fund.

34. *Interpretation of the rules.*—If any question arises relating to the interpretation of these rules, it shall be referred to the Government whose decision thereon shall be final.

35. *Special power of Government.*—Notwithstanding anything contained in these rules, when the Government are satisfied that the operation of any of these rules causes or is likely to cause undue hardship to a Market Committee employee, they may after recording the reason for so doing deal with the case of such employee in such manner as may appear to them just and equitable:

Provided that the case shall not be dealt with in any manner less favourable to such member than that prescribed in these rules.

By order of the Governor,

T. SANKARAN,
Additional Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

Pension Scheme was introduced to the employees of the Malabar Market Committee in lieu of Contributory Provident Fund. In rule 7(1) of the Pension Rules it has been specified that the subscription portion of the amount in the existing Provident Fund with interest thereon shall be kept under a separate Provident Fund Account to be instituted under the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund Rules. On the request of the employees of the Malabar Market Committee the question was examined and the Government of Kerala have decided to frame the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund Rules. This notification is intended for the above purpose.

ANNEXURE

FORM No. I

[*See* rule 5 (2)]

Form of Application for Admission to the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund (To be submitted in Duplicate)

Name of applicant	*Official designation*	*Office to which attached*	*Service to which the applicant belongs*	*Whether the applicant is permanent or temporary. If temporary give the date of commencement of service*	*Rate of emoluments per mensem*	*Rate of subscription per mensem*	*If subscriber to any other fund, the name of such fund*	*Whether the applicant has a family or not*	*Account No. to be allotted*	*Remarks*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

A form of nomination in the prescribed form duly filled in is enclosed.

Station: Signature of applicant.

Date:

Enclosures:

FORM I A

[*See* rule 6 (3)]

Form of Nomination

I hereby nominate the person mentioned below, who is a member of my family to receive the amount that may stand to my credit in the Fund, in the event of my death before that amount has become payable or having become payable, has not been paid.

Name and address of the nominee	*Relationship with subscriber*	*Age*	*Contingencies on the happening of which the nomination shall become invalid*	*Name, address and relationship of the person, if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber*	*Name and address of the person to whom share is to be paid on behalf of minor*
(1)	(2)	(3)	(4)	(5)	(6)

Dated this..............................day of........................at.....................

Name designation and signature of witnesses

1. Signature of subscriber.

2.

FORM I B

[*See* rule 6 (3)]

I hereby nominate the persons mentioned below who are members of my family as defined in rule 2 of the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund Rules, to receive the amount that may stand to my credit in the Fund, in the event of my death before the amount has become payable, or having become payable, has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names.

Name and address of the nominees	*Relationship with the subscriber*	*Age*	**Amount or share of accumulations to be paid to each*	*Contingencies on the happening of which the nomination shall become invalid*	*Name, address, relationship of the person, if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber*	*Name and address of the person to whom share is to be paid on behalf of minor*
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Dated this....................day of................at..................................

Name, designation and signature of witnesses:

1.

2. Signature of subscriber.

*This column shall be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the fund at any time.

FORM I C

[*See* rule 6 (3)]

I having no family as defined in rule 2 of the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund Rules, hereby nominate the person mentioned below to receive the amount that may stand to my credit in the fund, in the event of my death before that amount has become payable of or having become payable, has not been paid.

Name and address of the nominee	*Relationship with the subscriber*	*Age*	**Contingencies on the happening of which the nomination shall become invalid*	*Name and address and relationship of the person, if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber*	*Name and address of the person to whom share is to be paid on behalf of minor*
(1)	(2)	(3)	(4)	(5)	(6)

Dated this..................day of.........................at.....................

Name, designation and signature of two witnesses:

1.

Signature of subscriber.

2.

*Where a subscriber who has no family makes a nomination he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.

Note:—"Death" need not be specified as a contingency on the happening of which the nomination shall become invalid.

FORM I D

[*See* rule 6 (3)]

I having no family as defined in rule 2 of the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund Rules, hereby nominate the persons mentioned below to receive the amount that may stand to my credit in the fund, in the event of my death before that amount has become payable, or having become payable, has not been paid and direct that the said amount shall be distributed among the said persons in the manner shown below against their names.

Name and address of the nominees	*Relationship with the subscriber*	*Age*	**Amount or share of accumulations to be paid to each*	***Contingencies on the happening of which the nomination shall become invalid*	*Name, address and relationship of the person, if any to whom the right of the nominee shall pass in the event of his predeceasing the subscriber*	*Name and address of the person to whom share is to be paid on behalf of minor*
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Dated this..............................day of..........................at.................

Name, designation and signature of two witnesses

1.

2. Signature of subscriber.

*This column shall be filled in so as to cover the whole amount that may stand to the credit of the subscriber in the fund at any time.

**Where a subscriber who has no family makes a nomination he shall specify in this column that the nomination shall become invalid in the event of his subsequently acquiring a family.

Note: "Death" need not be specified as a contingency on the happening of which the nomination shall become invalid.

33/4984/MC.

FORM No. 2

[*See* rule (7)]

Abstract of the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund From..........19......19......

Serial number as per register of subscribers	*Name of substriber*	*Official designation*	*Emoluments on which subscription is levied*	*Opening balance*
				Subscription account
(1)	(2)	(3)	(4)	(5)
			Credit	Total

Amounts of subscriptions or refunds of withdrawals received in

January	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*	*October*	*November*	*December*
(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)

FORM No. 2—(*Contd.*)

[*See* rule (7)]

Subscription withdrawn or temporary withdrawals			*Closing balance*			
Subscription accounts total of columns (6) *to* (17)	*Interest on subscription*	*Total of subscription account columns* (5), (18), (19)	*Subscription*	*Voucher No.*	*Subscription account*	*Remarks*
(18)	(19)	(20)	(21)	(22)	(23)	(24)

Signature of the Secretary.

FORM No. 3

[*See* rule 15 (5)]

Form of Application For Temporary Advances Against Deposits in the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund

1. Name and Account No. of the Subscriber:
2. Monthly emoluments, Pay and Designation:
3. Amount of advance required (both in figures and words):
4. Purpose for which it is required:
5. No. of instalments of recovery proposed:
6. Date of complete repayment of the previous loan:
7. Details of advances pending recovery:
   (1) The amounts of previous advances
   (2) Dates of drawal of each advances
   (3) Balance outstanding against each advance

7. (a) Amount of consolidated advance items 3 and 7 (3) and the number and amount of monthly instalments in which the consolidated advance is proposed to be repaid:

8. Name of treasury at which payment is desired:
9. I hereby declare that the above statements are true and that I agree to abide by the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund Rules in force. I also promise to repay the above advance in equal monthly instalments together with interest according to rules.

(Signature of the subscriber with name and designation)

Place:

Date:

10. Enquiry Certificate:

Signature of the Secretary.

Place:

Date:

FORM No. 4

*[See rule 15 (5)]

Form of Sanction for Temporary Advances from Madras Commercial Crops Market Committees Pensionable Employees Provident Fund

A temporary advance from the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund as particularised below is sanctioned by the undersigned under the rules regulating that fund:

1. Subscriber's name:
2. Subscriber's designation:
3. Subscriber's emoluments:
4. Subscriber's Provident Fund Account No.
5. Amount of advance:
6. Object of advance:
7. Rule or rules under which the advance is sanctioned:
8. Balance at the credit of the Subscriber on this date (as verified from the account last rendered by the Secretary):
9. Balance of previous advance, if any:
10. Date of repayment of previous advances, if any:
11. Special reason for granting the advance under rule 15 (1) (b):
12. Number of instalments in which the advance is to be recovered:
13. Amount consolidated advance (items 5 and 9) and the No. of instalments in which the consolidated advance is to be recovered:
14. Amount of each such instalment:

(Signature of Sanctioning authority with designation)

To

The.................................

FORM No. 5

[*See* rule 18 (2)]

Application For Non-Refundable withdrawal from the Madras Commercial Crops Market, Committee Pensionable Employees Provident Fund

1. Name and designation of the subscriber:

2. Pay and dearness pay:

3. Provident Fund. Account No.

4. Whether the subscriber had opted for the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund Rules within the prescribed time-limit:

5. Date of retirement on superannuation:

6. Total service (in years)

7. Object of the withdrawal:

   (a) If the withdrawal is required for meeting the expenditure in connection with the:-

      (1) higher education of any child or dependant of the subscriber, specify the nature and duration of the course (in the case of a dependant, also specify whether the subscriber has any child):

      (2) marriage of a son or daughter or any other female relative dependant on the subscriber, indicate also the month in which the marriage takes place (in the case of a dependant, specify also whether the subscriber has any daughter):

      (3) illness of the subscriber or any person actually dependant on him, mention the nature of illness also.

(4) acquisition of a house and/or site, furnish in whose name (s) (subscriber's and/or his wife's) it will be acquired and whether it is for the actual residence of the subscriber and/or his family:

(5) Construction, reconstruction, repair etc., of a house:

State whether the site on which the house is proposed to be constructed or the site on which the house proposed to be reconstructed, repaired, altered, etc., is situated, is owned by the subscriber and/or his wife, and whether the house is for the actual residence of the subscriber and/or his family.

(b) If the withdrawal is required for repayment of a loan taken for the—

(i) marriage of a son or daughter or any female relative dependant on him, specify the amount of loan taken on account of the marriage, the balance outstanding against it and the date on which the marriage has been celebrated.

(ii) construction of a house or allied purpose, state the amount of loan expressly taken for the purpose, the balance outstanding against it and in whose name (subscriber's and/or his wife's) the ownership of the house and/or site is vested.

8. Amount of the loan, if any, taken by the subscriber and/or his wife from the Government under any scheme sponsored by them for the grant of house construction loans, and the number and date of the orders/proceedings in which sanction was issued therefor (This column need be filled in only if the subscriber proposes to make a withdrawal for house construction or allied purpose):

9. Amounts of the withdrawal proposed (both in figures and words):

10. Name of the Treasury at which payment is desired:

11. (a) Whether any non-refundable withdrawal was made by him from the fund previously for the same or a different object and, if so, furnish the details thereof:

(b) If any withdrawal was made as mentioned in (a) above, state whether he had submitted the utilisation certificate in respect of the withdrawal to the appropriate authority within the prescribed time limit. If the certificate was not submitted within the said period, furnish the reasons therefor:

12. Special circumstances which necessitate the withdrawal (this column need be filled in only if the amount proposed to be withdrawn exceeds half the amount at the credit of the subscriber in the fund or six months pay, whichever is less or if the withdrawal requires sanction in relaxation of any of the provisions in the rules):

DECLARATION

I, ...do hereby declare that the above statements furnished by me are true and that I agree to abide by the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund Rules as amended from time to time.

Place: Dated Signature of the subscriber with full

Date: official address:

TO BE FILLED IN BY THE SECRETARY

I recommend for sanction the withdrawal of Rs..........................
(Rupees..........................only) by the subscriber.

CERTIFICATE

1. It is certified that I have verified the particulars furnished by the subscriber against columns 2,3,4,5,6,8 and 11 with reference to the relevant records in my office and that they are found to be correct.

2. It is also certified that I have caused enquiries to be made about the statement contained in the application regarding the object of the proposed withdrawal and that I am satisfied that it is bona fide.

Dated Signature of the Secretary.

Station:

FORM No. 6

[*See rule* 26 (1)]

Form of Application for closure of Provident Fund Account

To

The Chairman,
Malabar Market Committee.

Sir,

I am due to retire/have retired /have proceeded on leave preparatory to retirement for............month/have been discharged/dismissed/have resigned from Market Committee Service and my resignation has been accepted with effect from..........forenoon/afternoon.

2. I have not opted for the continued retention of my provident fund money in the fund. I therefore, request that the entire amount at my credit with interest due under the rules may be paid to me.

OR

I have opted for the continued retention of my Provident Fund money in the fund and my option has been forwarded vide letter No............. dated..............attached. I request that a sum of Rs........may be paid to me in terms of para 2 of that letter.

3. A sum of Rs. ....(Rupees............) was last deducted as provident fund subscription and recovery on account of refund of advance from my pay bill for the month of..............for Rs.........encashed on................

4. My provident fund account No. is................ My specimen signature in duplicate duly attested by Gazetted Officer, is enclosed.

5. I certify that I have neither drawn any temporary advance nor made any final withdrawal from my provident fund account during the 12 months immediately preceding the date of my quitting service/proceeding on leave preparatory to retirement or thereafter.

OR

Details of the temporary advance drawn by me/final withdrawals made by me from my provident fund account during the 12 months immediately preceding the date of my quitting service/proceeding on leave preparatory to retirement or thereafter are given below:

Amount of advance: Date:

1.

2: ...

6. I hereby certify that no amount was withdrawn/the following amounts were withdrawn by me from my provident fund account during the 12 months immediately preceding the date of my quitting service/proceeding on leave preparatory to retirement or thereafter for payment of insurance premia or for the purchase a new policy.

Amount Date..................

1.

2.

Yours faithfully,

Station:

Date:

(Signature)

CERTIFICATE BY THE CHAIRMAN

It is certified after due verification with reference to the records in my Office, that no temporary advance/final withdrawal was sanctioned to the applicant from his Provident Fund accounts during the 12 months immediately preceding the date of his quitting Service/proceeding on leave preparatory to retirement or thereafter.

OR

It is certified after due verification with reference to the records in my office, that the following temporary advances/final withdrawals were sanctioned to and drawn by the applicant from his provident fund account during the 12 months immediately preceding the date of his quitting service/proceeding on leave preparatory to retirement or thereafter.

Amount of advance /withdrawal. Date. Voucher No.

Signature of the Chairman.

FORM No. 7

[*See* rule 26 (2)]

Form of Application for closure of Provident Fund Account of a subscriber to be used by the Nominee or any other claimants where no Nomination subsists

1. Name of the employee of the Market Committee:

2. Date of birth:

3. Date of first appointment to Market Committee Service

4. Date of death:

5. Is proof of death in the form of a death certificate issued by Municipal authorities, etc., available? (Proof of death to be insisted/in case of doubt only):

6. Provident Fund account No. allotted to the Subscriber:

7. Amount of Provident Fund money standing to the credit of the subscriber at the time of his death:

8. Does a valid nomination in respect of the provident fund money of the subscriber exist?

9. If so, the name of the nominee/nominees and his/her/their relationship to the deceased employee of the Market Committee:

10. If so valid nomination exist, names of the members of the family to whom the provident fund money will be payable in equal shares and their respective relationships to the deceased employee of the market Committee:

11. If no valid nomination exists and the subscriber has not left behind any family member, the names of persons to whom the provident fund money is payable (to be supported by letters of probate or succession certificate etc.);

12. If the subscriber had opted for continued retention of his provident fund money in the fund the following particulars may be given:

(a) Date of retirement of market committee servant from market Committee service:

(b) Amount at the credit of the subscriber of the date of retirement:

(c) Amount finally withdrawn after retirement if any:

CERTIFICATE BY THE CHAIRMAN

It is certified after due verification with reference to the records in my office, that no temporary advance/final withdrawal was sanctioned to the applicant from his provident fund account during the 12 months immediately preceding the death of the subscriber.

OR

It is certified after due verification with reference to the records in my office, that the following temporary advances/final withdrawals were sanctioned to and drawn by the deceased subscriber from his provident fund account during the 12 months immediately preceding the date of his death.

Amount of advance/withdrawal

	Rs.	Date.	Voucher No.
1.			
2.			

Signature of the Chairman,

Market Committee.

FORM No. 8

(*See* rule 31)

Form of Bill for Payment of Provident Fund Money

Adjustable by
Voucher No..............
Date.....................

Bill for withdrawing final payment/advance/other withdrawals from the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund of Sri/Smt.............. of the ....for the month......

Sl. No.	*Name of subscriber and monthly pay*	*P.F. Account No.*	*No. and date of sanction/letter of authority*	*Final payment/advance/other withdrawals*	*Acquittance*
(1)	(2)	(3)	(4)	(5)	(6)

Total

Net amount required for payment (in words)

Rupees..............................

Space for classification...................

Signature
(Stamp)
(Designation of the Drawing Officer)

Pay Rs......... (Rupees.................)

Station:
Date:
Contents received
Pay to...................

Examined and entered.
Accountant.

(Signature of the Drawing Officer).

CERTIFICATES

I. Certified that I have satisfied myself that all sums included in bills in form........ drawn 1 month/2 months/3 months previous to this date in favour of Messrs............ Accounts No......... with the exemption of those detailed below (of which the total has been refunded by deduction from this bill) have been disbursed to the proper persons and that their acquittances have been taken and filed in my office with receipt stamp duly cancelled for every payment in excess of Rs. 20.

II. Certified that the balance at my credit/at the Credit of the subscriber on the date of withdrawal covers the sum drawn in the bill. Certified also that the amount asked for in this bill is required to meet the yearly premium due on......in respect of policy No........with the Life Insurance Corporation of India and that the policy in question has been assigned to the Local authority and is in the custody of the ....or the details of the Policy proposed to be taken have been communicated to and accepted by the ....in his letter No............dated......................................

Signature:

Designation:

Give details here if more than one policy has to be cited.

for use in office

Admitted Rs..............

Objected Rs..............

Accountant.

Chairman of the Market Committee/Secretary.

FORM No. 9

(*See* rule 32)

Register of Subscribers to the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund and Their Nominees

Subscribers

Sl. No.	*Name in full*	*Father's name*	*Address*	*Date of birth by the Christian Era*	*Date of admission*	*Age on date of admission*	*Name of appointment held on date of admission*	*Pay of post*	*Name and date of certificate of nomination (to be filed separately)*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Nominees

Sl. No.	*Name in full*	*Relationship to subscriber*	*Age*	*Occupation*	*Address*	*Sums due in what proportions payable*	*Name and address of witnesses attesting the Certificate*	*Initials of the Secretary*	*Remarks*
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)

FORM No. 10

(*See* rule 31 and 32)

Cash Book of the Madras Commercial Crops Market Committee Employees Provident Fund for the year 19......

Voucher No. and date	*Subscription*	*Miscellaneous*	*Particulars of transaction*	*Voucher No. and date*	*Subscription*	*Investments*	*Miscellaneous*	*Particulars of transaction*	*In S.B. Account*	*Under investment*	*Remarks*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Receipts				*Payments*					*Balance*		

Note:—1. In column (1) the Voucher No. and date of the bill in which the amounts of Provident Fund subscription etc., recovered from the pay of the subscribers are re-drawn for the purpose of crediting to the Provident Fund Account shall be noted.

2. In column (5) the Voucher No. and date of the bill in which the money is withdrawn for payment to subscribers or for investment etc., have to be noted.

Signature of the Secretary,
Market Committee.

FORM No. 11

(*See* rule 32)

Register of Temporary Advances and their Recoveries

Withdrawals						
Name and designation	*Account number*	*Authority*	*Amount sanctioned*	*Amount withdrawn*	*Number of instalments for recovery*	*Year*
(1)	(2)	(3)	(4)	(5)	(6)	(7)
					19 — 19	
					19 — 19	
					19 — 19	
					19 — 19	

Recoveries												
January	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*	*October*	*November*	*December*	*Remarks*
(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	20)
Rs.	*Rs.*	*Rs.*	*Rs.*	*Rs.*	*Rs.*	*Rs.*	*Rs.*	*Rs.*	*Rs.*	*Rs.*	*Rs.*	

FORM No. 12

(*See* Rules 21 and 32)

Register of Premia

1. Name of Policy holder
2. Provident Fund Account No.
3. Name of Insurance Company
4. No. of policy
5. Date of maturity of policy
6. No. of instalments in which the annual premia is payable
7. Amount in each instalment

Instalment No.	*Letter No.*	*Amount paid Rs. P.*	*Date of payment*	*Initials of Secretary*	*Remarks*

APPENDIX I

(*See* rule 24)

Payment of amounts to nominees

1. Any sum payable under rule 24 to a member of a subscriber vests in such member under sub-section (2) of section 3 of the Provident Funds Act, 1925 (Central Act 19 of 1925).

2. When a nominee is a dependant of the subscriber as defined in clause (c) of section 2 of the Provident Funds Act, 1925 (Central Act 19 of 1925), the amounts vests in such nominee under sub-section (2) of section 3 of the said Act.

3. When the subscriber leaves no family and no nomination made by him in accordance with the provisions of rule 6 subsists, or if such nomination relates only to part of the amount standing to his credit in the fund the relevant provisions of clause (b) and sub clause (ii) of clause (c) of sub-section (1) of section 4 of the Provident Funds Act, 1925 (Central Act 19 of 1925), are applicable to the whole amount or the part thereof to which the nomination does not relate.

APPENDIX II

[*See* note 2 (ii) under rule 24]

Form of bond of Indemnity for drawal of Provident Fund Money to the Minor Child/Children of a deceased subscriber by a person other than its/their natural guardian where each Minor's share does not exceed Rs. 500

KNOW ALL MEN BY THESE PRESENTS that we, Shri.................. ....(here enter name and address) (hereinafter called "the bounden") and Shri..................and Shri.................. (here enter names and address) (hereinafter called "the Sureties") do hereby bind ourselves and each of us our and each of our heirs, executors and administrators jointly and severally to pay to the Chairman of the Market Committee (hereinafter referred to as "the Chairman") on demand the sum of Rs....... (Rupees in words................)

Signed and dated this the........................day of...... ....(year in words)

By the bounden Shri..

In the presence of witnesses:

(1) ....
(2) ....

By the Sureties 1. Shri..................
2. Shri..................

In the presence of witnesses:

(1)........................
(2)........................

WHEREAS Shri............................was at the time of his death a subscriber to the Madras Commercial Crops Market Committees Pensionable Employees Provident Fund;

AND WHEREAS the said Shri........................died on the day of ....and a sum of Rupees...........................(in words also......................) is payable by the Chairman on account of his provident fund accumulation;

AND WHEREAS the bounden claim the said sum on behalf of the minor child/children of the said Shri.........................but has not obtained guardianship certificate;

AND WHEREAS the bounden has satisfied the............ (officer concerned) that he/she is entitled to the aforesaid sum and that would cause undue delay and hardship if the bounden was required to produce a guardianship certificate;

AND WHEREAS the Chairman desires to pay the said sum to the bounden but under Rules and authoritative orders it is necessary that the bounden should first execute a bond with two sureties to indemnify the Chairman against all claims to the amount so due as aforesaid to the Shri..........(deceased) before the said sum can be paid to the bounden;

NOW THE CONDITION of this bond is such that if after payment has been made to the bounden, the bounden or the sureties shall, in the event of a claim being made by any person other than the bounden against the Chairman with respect of the aforesaid sum of Rs............... refund to the Chairman the sum of Rupees............(Rupees.............................) and shall always indemnify and save the Chairman harmless from all liabilities in respect of the aforesaid sum and all costs incurred in consequence of any claim thereto then the above written bond or obligation shall be void but otherwise the same shall remain in full force and virtue.

The liability of the sureties under this bond is co-extensive with that of the bounden and shall not be affected by the Chairman giving time or any other indulgence to the bounden:

Provided further that the bounden and sureties do hereby agree that all sums found due to the Chairman under or by virtue of this bond may be recovered jointly and severally by appropriate proceedings in a Civil Court or in such other manner as the Chairman may deem fit.

Signed by the bounden Shri.................................

In the presence of witnesses:

1.

2.

Signed by the sureties Shri.............. ....
and Shri ....

In the presence of witnessses:

1.

2.

APPENDIX III

(*See* note 3 under rule 24)

Form of indemnity that should be taken for authorising payment of the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund deposits without insisting on the Production of letters of Administration or other legal authority to a person claiming payment as heir of the deceased nominee of the Subscriber

KNOW ALL MEN BY THESE PRESENTS that we, Shri.................... ....(here enter name and address) (hereinafter called "the bounden" and Shri.........................and Shri.......... (here enter names and addresses) (hereinafter called "the sureties") do hereby bind ourselves and each of us our and each of our heirs, executors and administrators jointly and severally to pay to the Chairman of the Market Committee (hereinafter referred as "the Chairman") on demand the sum of Rs......... (Rupees in words)

Signed and dated this the.....................day of.......... (year in words)

By the bounden Shri.............................

In the presence of witnesses:

(1)..............................

(2)..........................

By the Sureties 1. Shri....................

2. Shri....................

In the presence of witnesses:

(1)..............................

(2)................................

WHEREAS Shri....................was at the time of his death a subscriber to the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund; AND WHEREAS the said Shri............ ....(here enter the name of subscriber) died on the ......day of..................................;

AND WHEREAS a sum of Rupees..............(in words) is payable to Shri......................the nominee of the said Shri................ (here enter the name of the subscriber) by the Chairman on account of the Madras Commercial Crops Market Committee Pensionable Employees Provident Fund accumulations of the said Shri................(here enter the name of the subscriber)

AND WHEREAS the said Shri........................(here enter the name of nominee) predeceased the said Shri....................(here enter the name of the subscriber);

AND WHEREAS the bounden claims the said sum but has not obtained probate or letters of administration or other legal authority;

AND WHEREAS the Chairman desires to pay the said sum to the bounden but considers it necessary that the bounden should first execute a bond with two sureties to indemnify the Chairman against all claims to the amount so due as aforesaid before the said sum can be paid to the bounden;

Now the condition of this bond is such that if after payment has been made to the bounden the bounden and the sureties shall, in the event of a claim being made by any person other than the bounden against the Chairman with respect to the aforesaid sum of Rupees..................(in words also), refund to the Chairman the sum of Rupees..............(in words also) and shall otherwise indemnify and save the Chairman harmless from all liabilities in respect of the aforesaid sum and all cost incurred in consequence of

any claim thereto then the above written bond or obligation shall be void but otherwise the same shall remain in full force and virtue;

The liability of the sureties under this bond is co-extensive with that of the bounden and shall not be affected by the Chairman giving time or any other indulgence to the bounden:

Provided further that the bounden and the sureties hereby agree that all sums found due to the Chairman under or by virtue of this bond may be recovered jointly and severally by appropriate proceedings in a Civil Court or in such other manner as the Chairman may deem fit.

Signed by the bounden Shri..............................

In the presence of witnesses:

1. ....
2. ....

Signed by the sureties Shri..............................
and Shri..............................

In the presence of witnesses:

1. ....
2. ....

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